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Letter dated 5 December 2005 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council

On 26 March 2004, the Security Council adopted resolution 1534 (2004). In its resolution, the Security Council requested each Tribunal to provide to the Council by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the respective Tribunals, explaining what measures have been taken to implement this completion strategy, and what measures remain to be taken.

After consulting with the Prosecutor and in conformity with the resolution, I am pleased to submit to you a revised version of the completion strategy for the International Criminal Tribunal for Rwanda, containing the assessment requested (see enclosure).

(*Signed*) Erik **Mose**
President

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Enclosure

Completion strategy of the International Criminal Tribunal for Rwanda

Summary

This document outlines the Completion Strategy of the International Criminal Tribunal for Rwanda (ICTR), based on the information available as of 30 November 2005. It takes into account the deadlines set in Security Council resolutions 1503 (2003) and 1534 (2004).

Trials of twenty-six persons are completed. Cases involving twenty-six accused are in progress. Consequently, the number of persons whose trials have been completed or are in progress is fifty-two. Seventeen detainees comprising fourteen accused indicted before 2005 and three recently indicted accused are awaiting trial. The Prosecutor intends to transfer five of the fourteen detainees to national jurisdictions. The trials of the remaining nine detainees will start from 2006 onwards, depending on Trial Chamber and court room availability.

The Prosecutor will focus on the accused bearing the greatest responsibility for the crimes committed in 1994. Nineteen indicted persons are still at large, fourteen of whom were indicted before 2005. The Prosecutor intends to transfer four of these fourteen persons to national jurisdictions for trial. The Prosecutor has recently completed investigation against sixteen suspects. The files involving eight of these suspects have been closed because of insufficient evidence, and eight indictments against the remaining eight persons have recently been confirmed. Of these eight indicted persons (three of whom have been recently arrested), the Prosecutor has earmarked the cases of four of these persons for transfer to national jurisdictions. However, the number of persons brought to trial at the ICTR from this group of persons at large may be less than fourteen (ten accused indicted before 2005 and four newly indicted accused), as some of these persons may be dead, and others may never be arrested.

It is estimated that the cases involving the twenty-six accused whose trials are currently in progress will be completed from 2006 onwards. Trials of the maximum of fourteen persons at large will commence in 2007 and 2008. On the basis of the information presently available, it is estimated that by 2008, the Tribunal would have completed trials involving sixty-five to seventy persons.

I. Introduction

1. The present document contains an up-dated and revised version of the ICTR Completion Strategy as of 30 November 2005. It takes into account Security Council resolutions 1503 (2003) and 1534 (2004), adopted on 28 August 2003 and 26 March 2004, respectively. The document has been progressively elaborated based on contributions from the President, the Prosecutor, and the Registrar. The basis for the consultations between these three organs was originally a document entitled "Completion Strategy of the Office of the Prosecutor", which contained developments as of 29 April 2003.[1] The present document, which is the sixth report on the Completion Strategy, is based on revised information provided by the Prosecutor and developments in 2005.[2] Revised and updated reports on the ICTR Completion Strategy will be submitted in conformity with Resolution 1534 (2004).

2. It is recalled that the first accused was transferred to Arusha in May 1996. Since the first trial started in January 1997, the ICTR has handed down nineteen judgements involving twenty-five accused. Of these, twenty-two were convicted and three acquitted. Six of these convicts are presently serving their sentences in Mali. The total output of the second mandate (1999-2003) amounts to nine judgements involving fourteen accused. This represents a doubling of the number of accused that were tried, when compared to the first mandate (1995-1999). So far in the third mandate (2003-2007), the Tribunal has commenced thirteen trials involving twenty-one accused and delivered four judgements involving four of these accused. A further judgment involving a single accused will be delivered on 13 December 2005. This will bring the total number of judgements to twenty in respect of twenty-six persons, which is reflected in Annex I.

3. In addition to the twenty-six persons whose trials have been completed, twenty-six accused are involved in ten trials. Five of these trials are multi-accused cases and very voluminous: the Butare case (six accused), the Military I case (four accused), the Government case (four accused), the Military II case (four accused) and the Karemera *et al.* case (three accused). Five cases are single-accused trials. The Seromba trial commenced on 20 September 2004. The Muvenyi trial started on 28 February 2005. Rwamakuba has recently been severed from the Karemera *et al.* case and his trial

[1] A first version of the ICTR Completion Strategy was submitted to United Nations Headquarters on 14 July 2003. That document was prepared notably within the context of General Assembly resolution 57/289 (2003) para. 15 (a), which provided that the proposed budget of the ICTR for 2004-2005 should include "detailed information as to how the resources requested for the biennium would support the development of a sound and realistic completion strategy". A second version of the ICTR Completion Strategy was submitted to United Nations Headquarters on 29 September 2003. This document formed the basis of the request to increase the number of *ad litem* judges sitting "at any one time" from four to nine. By resolution 1512 (2003), the Security Council granted the request. The third version of the document was submitted to the President of the Security Council on 30 April 2004 and formed the basis of the assessments provided by the ICTR President and Prosecutor during the Council's meeting on 29 June 2004. On 19 November 2004, the ICTR submitted the fourth version of its Completion Strategy, which was considered by the Security Council on 23 November 2004. A fifth version of the Completion Strategy was submitted on 23 May 2005.

[2] Following his first address to the Security Council in October 2003, the new ICTR Prosecutor, Mr Hassan B. Jallow, reviewed all the cases that were not currently on trial, with a view to determining which cases could reasonably be completed within the time frame set by the Security Council in Resolution 1503. The document dated 28 February 2004, entitled "Completion Strategy of the Office of the Prosecutor", was the result of this review.

commenced on 9 June 2005. The Mpambara trial commenced on 19 September 2005 and the Zigiranyirazo trial commenced on 3 October 2005. Further details are given below (see II). Consequently, the total number of accused whose trials have been completed or are in progress is fifty-two.

4. Of the seventeen detainees awaiting the commencement of their trials, fourteen had been indicted before 2005 and the remaining three have recently been indicted and arrested. From this group of fourteen detainees, the Prosecutor intends to request the transfer of five persons to national jurisdictions for trial. The remaining twelve detainees will have their cases heard when the Tribunal's capacity so allows (see III and para. 33).

5. There are nineteen indicted persons at large, fourteen of whom were indicted prior to 2005. From this group of fourteen accused, the Prosecutor intends to transfer the cases of four persons to national jurisdictions for trial (see para. 34). The cases of the five newly indicted persons at large and the three recently arrested detainees make up the group of eight cases in which indictments have been confirmed since the Completion Strategy of May 2005. The Prosecutor has identified four of these eight cases for transfer to national jurisdictions for trial (see para. 36).

6. Some of the accused at large mentioned above may be dead, whereas others may never be arrested. Consequently, the actual number of persons brought to trial at the ICTR may therefore be less than fourteen. As part of the Completion Strategy, the Prosecutor has formulated a more aggressive programme for tracking and apprehension of fugitives. The Tracking Team Section within the Investigation Division has been re-organised and strengthened. The Prosecutor has also visited a number of Member States of the United Nations with a view to securing their political support and cooperation for the arrest and transfer of fugitives.

7. The Prosecutor considers that approximately forty suspects could be tried in national jurisdictions. He is currently engaged in discussions with some States for this purpose and has already transferred thirty case files to Rwanda and one case file to Belgium. In the event that it is not possible to transfer some of these cases to national jurisdictions, the Prosecutor will return to the Security Council with alternative proposals (see VI).

8. Security Council resolution 1503 (2003) provides that all work of the ICTR and the International Criminal Tribunal for the Former Yugoslavia (ICTY) shall be completed by 2010. It is difficult at this stage to indicate a completion strategy for the ICTR Appeals Chamber, as it is linked to the ICTY completion strategy. It is recalled, however, that all ICTR judgements except two have been appealed. At present, five judgments involving nine persons are on appeal and one judgement involving a single person is on review (Niyitegeka, the Media case, the Cyangugu case, Gacumbitsi, Ndindabahizi and Muhimana). It is anticipated that the Appeals Chamber's already heavy workload will, in all likelihood, continue to increase. It has been observed from past experiences, that appeals are normally lodged by both (in multi-accused cases all) parties. Therefore, the real number of appeals is much higher than the number of judgements on appeal. As the work load of the Trial Chambers decrease, the focus will shift to the Appeal Chamber where a drastic increase in work is anticipated. This increase is further compounded by the fact that the Appeals Chambers considers ICTY appeals as

well. There will, at some stage, be a need to increase the number of judges at the Appeals Chamber if there are to be any reasonable prospects of completing the appeals by 2010. This will require an amendment of the Statute.

II. Activities in Chambers

9. On 3 December 2003, *Trial Chamber I* finalized the judgement in the so-called "Media Case", which was heard during the second mandate. It has also been hearing the continuation of the Military I case (Bagosora, Kabiligi, Ntabakuze and Nsengiyumva), transferred from the previous Trial Chamber III. The Prosecution closed its case in September 2004 after having called eighty-two witnesses and the Defence case started in April 2005. The Military I trial has been twin-tracked with the Ndindabahizi trial (from 1 September 2003), in which judgement was delivered on 15 July 2004, and the Simba trial (from 30 August 2004), in which judgement will be delivered on 13 December 2005.[3] On 19 September 2005, Trial Chamber I commenced the Mpambara trial.

10. *Trial Chamber II* was engaged in three trials concurrently during the second mandate. Judgement in the Kajelijeli trial was rendered on 1 December 2003. The Kamuhanda trial concluded with judgement on 22 January 2004. Particularly voluminous is the Butare trial. It involves six accused, which is the largest number or accused tried jointly before the ICTR (Nyiramasuhuko, Ntahobali, Nsabimana, Nteziryayo, Kanyabashi and Ndayambaje).[4] In the third mandate, Trial Chamber II has given priority to the completion of the Butare trial, and the Prosecution closed its case after having called fifty-nine witnesses. The Defence commenced its case on 31 January 2005. On 5 November 2003, the Trial Chamber commenced trial in the Government case, involving four government ministers (Casimir Bizimungu, Justin Mugenzi, Jerome Bicamumpaka and Prosper Mugiraneza). The Defence case started on 1 November 2005. On 20 September 2004, a different Trial Chamber Section commenced the Military II trial, in which the Prosecution is presenting its case.

11. *Trial Chamber III* heard three trials contemporaneously during the second mandate. Judgement was given in the Semanza case (one accused) on 16 May 2003. The Cyangugu trial with three accused (Ntagerura, Bagambiki and Imanishimwe) concluded with judgement on 25 February 2004. On 2 April 2002, the Chamber also started the Military I trial and heard evidence over thirty-two trial days. Following the reconstitution of the Chambers in early June 2003, this case was transferred to Trial Chamber I (para. 9). In the third mandate, Trial Chamber III has heard the Gacumbitsi trial (from July 2003), where judgement was delivered on 17 June 2004, and the

[3] "Twin-tracking" implies that two trials are heard in consecutive slots, for instance according to the following pattern: Trial A five weeks, trial B five weeks, trial A five weeks, etc. Defence counsel in trial A will leave Arusha while trial B is heard. The purpose of this system is to use inevitable breaks during one trial to ensure progress of another case. Such breaks allow the Prosecution and the Defence to prepare for the next stage of the proceedings (for instance by interviewing witnesses etc.).

[4] One of the judges in this Chamber was not re-elected for the third mandate (2003-2007). In resolution 1482 (2003), the Security Council did not extend his mandate for the purpose of enabling him to continue sitting on the Butare case. On 15 July 2003, the Chamber decided that the trial should continue with a substitute judge under Rule 15 *bis* of the Rules of Procedure and Evidence ("the Rules"). Appeals against this decision were dismissed by the Appeals Chamber on 24 September 2003.

Muhimana trial (from March 2004), where judgement was delivered on 28 April 2005. The Karemera *et al.* case commenced on 27 November 2003. Following the Appeals Chamber's decision of 28 September 2004 and its reasons of 22 October 2004, the trial had to commence *de novo*. Rwamakuba has since been severed from this case. His trial commenced on 9 June 2005, and the Defence is presenting its evidence. The Karemera *et al.* trial commenced on 19 September 2005 before a different Trial Chamber Section in Trial Chamber III and the Prosecution is presenting its case. On 3 October 2005, the Prosecution case started in the Zigiranyirazo trial.

12. The six single-accused cases that have started in the third mandate led to two judgements in 2004 (Gacumbitsi, Ndindabahizi) and three judgements in 2005 (Rutiganira, who pleaded guilty; Muhimana; and Simba to be delivered on 13 December 2005). The presentation of the Defence cases in the Butare and Military I trials, involving ten accused, is expected to be completed in 2006. The situation is the same for the Government case. The Karemera *et al.* case and the Military II case are also complex trials. It is estimated that these two multi-accused trials will be completed in 2006/7. An overview of on-going trials is presented in Annex 2.

III. Remaining Detainees

13. Seventeen detainees are awaiting the commencement of their trials. These cases will result in single-accused trials, some of which will commence in 2006, depending on Trial Chamber capacity. These detainees are identified in Annex 3.

14. All of the remaining indicted persons may not be tried by the ICTR. In determining which individuals should be tried before the ICTR, the Prosecutor will be guided by the need to focus on those who are alleged to have been in positions of leadership and those, who according to the Prosecutor, bear the greatest responsibility for the genocide. This concentration on the most senior leaders suspected of being most responsible for crimes committed within the jurisdiction of the ICTR is in conformity with Security Council resolution 1534 (2004). The criteria to be taken into consideration when making this determination are as follows:

- the alleged status and extent of participation of the individual during the genocide;
- the alleged connection an individual may have with other cases;
- the need to cover the major geographical areas of Rwanda in which the crimes were allegedly committed;
- the availability of evidence with regard to the individual concerned;
- the concrete possibility of arresting the individual concerned;
- the availability of investigative material for transmission to a State for national prosecution.

15. On the basis of these criteria, the Prosecutor intends to transfer the cases of five of the present detainees to national jurisdictions for trial.[5] It will be for the Trial Chambers to decide on the requests for transfer.

IV. Workload Relating to the Detainees

16. The analysis provided above (II-III) indicates that, in addition to the judgements involving twenty-six persons, the ICTR will deliver judgements in at least twenty-two cases in respect of thirty-eight persons from 2006 onwards (twenty-six accused currently on trial and twelve detainees).[6] Consequently, there is a need to estimate the time required to complete the trials of these persons.

17. Estimating the required number of trial days for the completion of these trials has its difficulties. However, for the purposes of continuity and the assessment of progress, the methodology used in the previous versions of the Completion Strategy, will be maintained. Calculations and projections made in these documents were premised on a sixty-two trial day average per accused.

18. It is recalled, firstly, that the estimates in previous Completion Strategy submissions were based on the number of witnesses and hours needed to present the Prosecution case, cross-examination and the Defence case. Since then, there has been considerable progress in many trials. For ease of reference, the table that formed the basis for the estimate of sixty-two trial days per accused is annexed to this document (Annex 4).

19. It is also recalled that the length of Defence cross-examination depends on factors relating to each individual case. Experience shows that in cases involving one accused, the cross-examination of Prosecution witnesses will generally take about the same amount of time as the examination-in-chief. In some instances, it may even be shorter. In multi-accused trials, the time taken for cross-examination often exceeds the time taken in examination-in-chief, particularly if the witness gives evidence implicating more than one or all the accused. It is assumed, as a working tool, that the total time taken for the cross-examination of a Prosecution witness will normally not exceed the total time taken for the examination-in-chief of that witness, when all cases are considered as a whole. In this context, it is taken into account that the Prosecution's list of witnesses has usually been reduced during trial.

20. Finally, it is recalled that information about Defence cases is difficult to obtain, particularly since most of these cases have not yet started and there is the issue of confidentiality when it comes to the trial strategy of the Defence. As a working tool, it is assumed that the time needed for the presentation of the Defence case should not exceed the time required for the presentation of the Prosecution case. Experience shows that it may often take less time.

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[5] As discussions with States are on-going, it is not possible to identify the five cases involving detainees that may be transferred to national jurisdictions.

[6] The twenty-two cases involving thirty-eight accused are Butare (6), Military I (4), Government (4), Military II (4), Karemera *et al.* (3), Rwamakuba (1), Seromba (1), Muvunyi (1), Mpa. ibara (1), Zigiranyorazo (1) and nine single-accused trials of detainees and three newly indicted detainees.

21. As mentioned above, the Prosecution usually reduces the number of witnesses as the trial unfolds. Furthermore, the Chambers exert considerable control over these variables within the ambit of fair trial principles, for instance by restricting the length of examination-in-chief and cross-examination. Therefore, it is highly probable that the real time spent in court may be less than sixty-two trial days per accused. Recent single-accused trials suggest that the Prosecution will usually require about twenty trial days to present its case. It is also worth noting that such cases completed recently reflect a substantially lower number of the total number of trial days per accused (Elizaphan and Gérard Ntakirutimana: thirty trial days per accused; Niyitegeka: thirty-five trial days; Gacumbitsi: thirty-two trial days; Ndindabahizi: twenty-seven trial days; Muhimana: thirty-four trial days). It is expected that this trend towards shorter trials will continue. However, at present, it is considered prudent to use as a working tool the estimation of sixty-two trial days per accused. This includes variables such as time needed for opening and closing arguments, extended cross-examination in multi-accused trials, hearing of and deliberation on motions, and illness.

Trials in Progress

22. The on-going trials are at different stages of completion. In the Butare trial, the Prosecution has closed its case after 212 days of trial. The Defence case commenced on 31 January 2005 and has proceeded over 111 trial days. Based on the premise that the Defence case will take as much time as the Prosecution case, a further 101 trial days will required for the Defence case.

23. In the Military I trial, the Prosecution closed its case after 202 trial days. The Defence case commenced on 11 April 2005 and has proceeded over eighty-five days of trial. A further 117 days will be required for the presentation of the Defence case, based on the premise that the Defence case will take as long as the Prosecution case. However, experience in previous multi-accused trials shows that the presentation of the Defence case usually requires less time compared to the Prosecution case, due to less intensive cross-examination.

24. In the Government case, involving four accused, the Prosecution has closed its case after 178 trial days. The presentation of the Defence case has commenced and proceeded over eleven trial days. Based on the estimation that the Defence case is expected to take as much time as the Prosecution case, the four Defence teams will require 167 trial days for the presentation of their respective cases.

25. The Military II case of four accused will require 248 trial days, based on the estimation of sixty-two trial days per accused. This trial commenced on 20 September 2004 and has since been conducted over 119 trial days. A further 129 trial days will be required for the completion of this trial.

26. In the Seromba trial involving a single accused, the Prosecution has closed its case after twenty-five trial days. The Defence has commenced the presentation of its case which has since proceeded over nineteen trial days. Based on the average of sixty-two trial days per accused, a further eighteen trial days will be required for the completion of trial.

27. The single-accused Muvunyi trial commenced on 28 February 2005 and has since proceeded over forty-five trial days. The Prosecution have completed the presentation of its case and the Defence

are currently presenting its case. Based on the average of sixty-two trial days for a single- accused trial, this trial will require a further seventeen trial days.

28. The Rwamakuba trial involving a single accused, commenced on 9 June 2005. The Prosecution has completed the presentation of its case over thirty-nine trial days. The presentation of the Defence case has commenced and has since proceeded over fifteen trial days. Based on the projection that the Defence case will require the same amount of time as the Prosecution case, the Defence will require a further twenty-four trial days for the presentation of its case.

29. The Karemera *et al*. trial of three accused, commenced *de novo* on 19 September 2005 after eight days of pre-trial hearings and status conferences. The trial has since proceeded over twenty-five trial days. Based on the estimation of sixty-two trial days per accused, a further 161 trial days will be required for the completion of trial.

30. The Mpambara trial involving a single accused commenced on 19 September 2005 and has since proceeded over nine trial days. Based on the estimation of sixty-two trial days for a single accused trial, a further fifty-three trial days will be required for the completion of trial. Early indications are that the trial will be completed in a shorter time.

31. The Zigiranyirazo trial of a single accused commenced on 3 October 2005 and has since proceeded over twelve trial days. Based on the estimation of sixty-two trial days for a single accused trial, a further fifty trial days will be required for the completion of trial.

32. The cumulative time required for the completion of trials that are presently in progress is 837 trial days. Again, these are only estimates. Some trials may require longer time, others less. Additional time will be required for judgement writing.

Detainees Awaiting Trial

33. The seventeen detainees awaiting the commencement of their trials comprise fourteen accused who had been indicted before 2005 and three persons who have been indicted in 2005. From the group of fourteen detainees, the Prosecutor intends to request the transfer of five persons to national jurisdictions for trial (paras. 13-15). Trials of the remaining nine persons from this group will require 558 trial days, based on the average of sixty-two trial days per accused. The three newly indicted detainees are addressed below (para. 38).

V. Workload Relating to Persons at Large and the Eight New Indictments

34. The Completion Strategy of April 2004 indicated that seventeen indicted persons were at large. Following the arrest and transfer of three of these accused, the number had been reduced to fourteen. This number subsequently increased to nineteen, with the recent confirmation of indictments. From the original group of fourteen persons at large, the Prosecutor intends to transfer four persons to national jurisdictions for trial. The five newly indicted persons at large are addressed below (para. 40).

35. The Completion Strategy of September 2003 indicated that twenty-six suspects were at large. As the Prosecutor's strategy is to prosecute before the ICTR those persons bearing the greatest responsibility for the crimes committed in Rwanda in 1994, the number of suspects under investigation was reduced to sixteen in the Completion Strategy submission of April 2004.[7] Following the completion of investigations in respect of the genocide, the files involving eight of these persons have been closed due to lack of evidence. Eight indictments against the remaining eight suspects have recently been confirmed. Five of these persons remain at large and are included in the nineteen fugitives mentioned above (para. 34). The Prosecutor has also taken account of the mandate of the ICTR, as emphasized by Resolution 1503, to investigate reports of violations by the Rwanda Patriotic Front (RPF).

36. Once an individual is indicted, substantial investigations must be continued in order to support the trial team. Additional investigations may be needed to replace the evidence of witnesses who may have died, to assist in the interviewing of witnesses prior to their travel to Arusha, to supplement and corroborate the evidence, and to address the Defence case and any possible rebuttal.

37. All investigations in respect of the genocide have now been completed, as requested by Resolution 1503 (2003). Moreover, when the eight indictments were submitted for confirmation, the Prosecutor ensured that these cases were ready for trial, in the sense that all approved identified investigations are completed, a draft pre-trial brief is prepared, together with draft exhibits and witness lists, and that disclosure searches (as of that date) are completed. This will ensure that (i) there will be no delay in trial preparations when the accused is surrendered to the Tribunal; (ii) the case can be more readily assigned to a new Prosecution team if necessary; or (iii) referred to a national jurisdiction pursuant to Rule 11 *bis* of the Rules.

38. Of the eight indictments recently confirmed, three accused have been arrested and five accused remain at large (paras. 33-34). The Prosecutor has earmarked four of these cases involving four accused for transfer to national jurisdictions for trial. The remaining four cases of four accused together with the cases of the ten accused who remain at large will mean that the Tribunal will need to hold trials for fourteen accused. Based on the average of sixty-two trial days per accused (paras. 17-21), it is estimated that these trials could take 868 trial days. Again, it is stressed that the number of persons brought to trial may be less than fourteen, and that the number of trial days per accused in single-accused trials may be reduced.

39. The Office of the Prosecutor's investigations section continues to provide support in respect of ongoing trials and appeals. There will now be a shift in emphasis from classical investigations to trial and appeals support, with the completion of investigations against the eight suspects.

VI. Transfer of Cases by the Prosecutor to National Jurisdictions

40. The Completion Strategy of September 2003 indicated that about forty cases were earmarked for transfer to national jurisdictions. According to the April 2004 Completion Strategy, the Prosecutor

[7] In the November 2004 version of the Completion Strategy the number was fifteen. The correct figure is sixteen.

increased the number of these cases from forty to forty-one. He is currently engaged in discussions with some States for this purpose. His intention is to transfer, in some cases, files in respect of which investigations have been completed and are trial ready and, in other cases, dossiers requiring further investigations by the receiving country. The decision to transfer cases to national jurisdictions is a judicial one in cases where indictments exist. The Prosecutor intends to proceed under Rule 11 *bis* in respect of thirteen persons: five detainees (paras. 14-15 and 33); four indictees still at large (para. 34); and four of the newly indicted persons. In addition, the Prosecutor envisages the transfer of files involving thirty-two individuals to national jurisdictions for trial. This process has commenced. Case files in respect of thirty suspects have already been transferred to Rwanda and in respect of one suspect to Belgium.

41. In preliminary discussions with national authorities, the Office of the Prosecutor has ascertained that the laws of the State in which some suspects are present may not confer jurisdiction over these suspects or the crimes they allegedly committed. Others have investigated the cases and not pursued them, and may be reluctant to re-open these cases. Many of the suspects are in less-developed countries where judicial systems are under strain arising from the prosecution of their own accused. The Prosecutor believes that it is important to explore the possibility of transferring cases to African countries where certain suspects are now living, despite the above constraints.

42. Transfer of cases to Rwanda raises several issues. One involves the death penalty, which has been imposed in genocide cases, though only rarely implemented. There is also the issue of the capacity of the Rwandan judicial system to handle such cases at a time when it faces difficulties in coping with thousands of local cases connected with the genocide. Since many of the cases earmarked for transfer are destined for Rwanda, the issue of resources may therefore affect the proposed transfer of cases to Rwanda.

43. The Prosecutor will initiate discussions with States regarding transfer of cases and transmissions of files. He will insist on compliance with international standards of fair trial on the files transmitted. In the event that it is not possible to transfer or transmit these cases to national jurisdictions, he will make alternate proposals to the Security Council and highlight the related budgetary implications.

VII. Total Remaining Workload

44. The estimated number of trial days required for the completion of all trial work is 2,263 trial days. This is a cumulative assessment made on the basis that 837 trial days will be required for the completion of trials in respect of the twenty-six persons presently on trial (para. 32); 558 trial days will be necessary to complete trials in respect of the nine detainees awaiting trial (para. 33); and 868 trial days will required for the completion of trials in respect of the maximum of fourteen persons comprising the accused who remain at large and four of the recently indicted eight accused (para. 38).

45. In 2003, the Trial Chambers sat a total of 498 trial days. In 2002, the three Trial Chambers sat a total of 414 trial days. In 2001, the Chambers sat a total of 340 trial days. Examination of the Chambers' actual sitting times shows that the amount of time that a Chamber was able to devote to

trials over this three year period was 135 trial days in 2001, 150 trial days in 2002 and 166 trial days in 2003. In previous Completion Strategy submissions, projections were premised on an average of 150 trial days per year, per Trial Chamber Section. For reasons mentioned above (para. 17), estimates in this document will be based on this average.

46. Factors which contributed to a reduction in the number of trial days included the difficulty to obtain the appearance of witnesses from Rwanda and illness on the part of judges and counsel. The ICTR has taken several steps to ensure that such factors are minimized in the future. In particular, the Rules have been amended to allow for a Trial Chamber to continue the trial in the eventuality of a judge being ill, absent or permanently unavailable (Rule 15 *bis*).[8] The insistence by the Trial Chambers on having two Defence counsel and, in the event of illness or absence of one counsel, requiring the remaining counsel to continue, will reduce the occurrence of interruptions of trials. At present, witnesses from Rwanda are appearing before the ICTR. It is important that this situation continues.

47. Experience shows that it is difficult to ensure that witnesses are always available, even with the use of additional witnesses present in Arusha in case of unavailability. A frequent situation in practice is that Prosecution or Defence counsel requires additional time to prepare witnesses for examination-in-chief. The Chambers also have to allow Prosecution and Defence additional time for the preparation of cross-examination in situations where unexpected evidence emerges or evidence is tendered without proper notice. Sufficient time is needed for pre-trial hearings, deliberation on motions and judgement writing. These circumstances combined with illness and other forms of unavailability of witnesses, not only reduce the number of trial days but also the number of sitting hours per trial day. Nevertheless, the Chambers will continue their efforts to increase the time spent in the court room.

VIII. Past and Present Strategies

48. **Pre-trial Stage**: At the commencement of the second mandate, in June 1999, there were a considerable number of pending pre-trial motions. The Prosecutor at that time requested the joinder of a large number of accused in one case, at one point asking for the confirmation of a joint indictment for over twenty suspects. The Confirming Judge denied the request. The Prosecutor then asked for joinder of smaller numbers of accused, who allegedly participated in the same criminal transaction, such as the use of public media, the actions of military officials, government officials, or alleged crimes in certain geographical areas of Rwanda (Butare, Cyangugu). This led to a considerable number of motions from the Prosecution requesting amendments of indictments and the joinder of accused. In addition, a large number of motions were filed by the Defence.

49. Consequently, the first priority for the Chambers in 1999 was to reduce the number of motions in order to move cases to the trial stage. To facilitate this, the judges amended the Rules in order to allow for motions to be considered solely on written pleadings and also by a single judge. These measures taken to reduce the workload of outstanding motions increased the efficiency of the

[8] In 2003, there was a disruption to trial proceedings because some of the judges were not re-elected.

Chambers and reduced costs in connection with oral hearings of motions. After having reduced the number of pending motions to a minimum, full translation and disclosure of documents was ordered before all three Trial Chambers could commence with trial.

50. Additionally, changes to the Rules were adopted by the judges in the Plenary to regulate the pre-trial process and to restrict the number of interlocutory appeals that were delaying the commencement of trials. Through pre-trial and pre-defence status conferences, a Trial Chamber has the authority to streamline trial proceedings. In particular, the parties may be ordered to file briefs addressing the factual and legal issues, identifying contested matters, and provide a list of witnesses intended to be called, along with a summary of the facts and the specific allegations in the indictment on which the witnesses will testify. Moreover, the parties must give an estimate of the time that will be taken by each witness to give their evidence, and the Trial Chamber may order a reduction in the number of witnesses and the time for witnesses to give evidence-in-chief. The Trial Chamber may also order information on the status of exhibits (Rules 73 *bis* and *ter*).

51. A useful step was the establishment of the Trial Committee in 2003, which is composed of representatives of Chambers, the Registry and the Prosecution. The Committee, which is in contact with the various Defence teams, has facilitated the trial-readiness of several new cases. A Translation Working Group has studied ways to speed up translation of documents and thus avoid delays in the judicial proceedings.

52. Guilty pleas reduce the length of trials. Experience shows that not more than a day is needed for a Chamber to satisfy itself that a guilty plea is informed, unequivocal, and made freely and voluntarily. The writing of the judgement requires limited time. Unlike the situation at the ICTY, very few accused have pleaded guilty at the ICTR.[9] It is difficult at this stage to estimate how many accused at the ICTR may in future plead guilty. At the Plenary Session in May 2003, the Rules were amended, providing a legal basis for plea-agreements.

53. **The Trial Stage:** All Trial Chambers have been conducting trials on a twin-track basis (in some instances also on a "triple-track" basis). This strategy resulted in the production of a considerable number of judgements in 2003. However, twin-tracking of two big cases or more is cumbersome. Experience shows that the best model is to twin-track one big and one small case, and this strategy will be followed in the future, unless the big case is particularly voluminous and complex. When required, the ICTR is using the so-called "shift system", which ensures that one court room is used for two cases heard in morning and afternoon sessions. The shift system operates in a morning shift from 8.45 to about 13.00, and an afternoon shift until about 18.30.

54. Following the ICTR's request of 9 July 2001, the Security Council adopted Resolution 1431 of 8 August 2002, created a pool of eighteen *ad litem* judges. The purpose of this reform, which followed a similar Security Council resolution for the ICTY in 2000, was to increase the judicial capacity of the ICTR. The election of the eighteen *ad litem* judges by the General Assembly took

[9] The following judgements were based on guilty-pleas: *Prosecutor v. Jean Kambanda* (1998); *Prosecutor v. Omar Serushago* (1999); *Prosecutor v. Georges Ruggiu* (2000); *Prosecutor v.Vincent Rutaganira* (2005).

place on 25 June 2003. The first *ad litem* judge took office on 1 September 2003 and three other *ad litem* judges arrived in October 2003. Pursuant to two other requests on 8 September 2003 and 29 September 2003, respectively, the Security Council on 27 October 2003 adopted Resolution 1512, which increased, from four to nine, the number of *ad litem* judges who could take office at any one time. The Security Council also conferred on the *ad litem* judges the competence to adjudicate over pre-trial matters. The fifth judge arrived in March 2004. The arrival of the five *ad litem* judges made it possible to start four new trials and to continue the Butare trial. After the arrival of the remaining four *ad litem* judges in September 2004, it was possible to commence another two trials.[10]

55. With nine *ad litem* judges, the Tribunal is able to set up six Trial Chamber Sections. These six Sections will be able to produce 4,500 hours of trial work over 900 trial days per year. However, it follows from the ICTR Statute that a Trial Chamber Section must be comprised of both permanent and *ad litem* judges. Hence, the full utilisation of *ad litem* judges depends on the availability of permanent judges. At present, several permanent judges are engaged in voluminous trials.[11] This makes it difficult to maintain six Trial Chamber Sections on a permanent basis. However, experience shows the usefulness of twin-tracking one joint trial with a single-accused trial, as well as the Trial Chamber Sections sitting in shifts. Therefore, the number of Trial Chamber Sections is about six, even if they are not all sitting on a permanent basis.[12]

56. As mentioned above, ten trials are currently in progress of which five are voluminous joint trials. It is important to find the right balance between the multi-accused and single-accused trials. Some Trial Chamber Sections sit in morning and afternoon shifts. These sessions are shorter than full trial days, by about two hours. In the November 2004 version of the Completion Strategy, it was mentioned that the construction of a fourth courtroom would allow for more full trial days, thus increasing the progress of the multi-accused trials and courtroom capacity when appeals are heard. Following voluntary contributions by the Norwegian and United Kingdom Governments, a new courtroom was constructed in record time and inaugurated on 1 March 2005. It is in full use and represents a very important element of the Tribunal's Completion Strategy.

57. In spite of all measures taken to accelerate the proceedings, cases may still appear to be time-consuming. It should be remembered that conducting judicial proceedings at the international level is a more complicated task than at the national level. The cases at the *ad hoc* Tribunals are legally and factually very complex. There is a considerable volume of documents normally disclosed during trials of alleged architects of the atrocities, including alleged high-ranking members of the government. These documents must be translated for legal teams and accused, who may require translations of all the documents into the other official language of the Tribunal before they respond to motions or

[10] From September 2003 to the end of April 2004, *ad litem* judges participated in the following four new trials: Ndindabahizi, Government, Karemera *et al.*, and Muhimana. From September 2004, *ad litem* judges also sat in these trials: Seromba, Military II, Rwamakuba, Muvunyi, Mpambara, Zigiranyirazo.

[11] Two permanent judges sit in the Butare trial and three in the Military I trial.

[12] A total of eight Trial Chamber Sections have been hearing evidence in the second half of 2005: Butare, Military I, Government, Military II, Seromba, Muvunyi, Mpambara, and Zigiranyirazo.. This is possible because some judges sit in two trials, either because of twin-tracking or the shift-system.

undertake trial preparation. The number of witnesses is often considerable, and simultaneous interpretation of all testimony is required into three languages. Witnesses have often to be extracted from difficult environments, afforded considerable protection before and after testimony and sometimes re-located. The staff and counsel involved in cases come from different cultures and traditions, and effective communication requires new skills and extra effort. Prosecution and Defence counsel come from all over the world, and have different court-room styles. Defence counsel have to leave their other case-work for considerable periods to spend time working at the ICTR in Arusha, usually away from their practices.

58. **Administrative Matters:** With the shift in emphasis of the ICTR from one centred on investigation and arrests to one centred on trials, the Registry will focus its attention on the end-date for the Tribunal in all aspects of its work. Contracts entered into, item of equipment purchased and personnel recruited will all bear a close relationship to the Completion Strategy.

59. In assessing its needs for human resources with a view to promoting the implementation of its Completion Strategy, the Prosecutor envisages a substantial increase in the number of trial attorneys and an expansion of its Appeals Section. Investigative and administrative support is also needed. This increase will be addressed by redeployment. The Prosecutor expects that at the anticipated conclusion of investigations, some posts presently held by investigators could be re-deployed to increase the number of trial attorneys, legal advisors and other staff required for trial.

60. **Sufficient Resources:** In order to respect the time-frames laid down by Security Council resolutions 1503 and 1534, the ICTR must continue to receive the necessary resources. Last year, the United Nations administration imposed a freeze on the recruitment of new staff at the Tribunal, due to delays in the payment of contributions to the *ad hoc* Tribunals by Member States. This threatened to have significant effect on the Completion Strategy. The lifting of the freeze at the beginning of 2005 improved the situation.

IX. Conclusions

61. The estimated work-load outlined above makes it possible to draw the following conclusions based on six Trial Chamber Sections.

62. As mentioned above, there are currently twenty-six accused in ten trials (Butare, Military I, the Government Case, Military II, Karemera *et al.*, Seromba, Muvunyi, Rwamakuba, Mpambara and Zigiranyirazo), five of which are lengthy because they are joint trials. These trials are at different stages. An estimate of 837 trial days will be required for their completion (para. 32). Trials of the nine detainees awaiting trial will require about 558 trial days (para. 33). Approximately 868 trial days will be required for the completion of trials in respect of the fourteen persons comprising ten of the fourteen accused who remain at large and four of the recently indicted eight accused (para. 38). Consequently, it is estimated that 2,263 trial days will required to complete all trials (para. 44).

63. In the Completion Strategy of April 2004, it was projected that in 2004, three trials (Gacumbitsi, Ndindabahizi and Muhimana) would be completed. This target was accomplished. It was also stated that three trials involving six accused (Simba, Seromba and Military II) would commence from May to September 2004. This projection was also accomplished.

64. The Completion Strategy of May 2005 indicated that, besides the judgements in the Rutaganira and Muhimana cases which were delivered in March and April 2005 respectively, judgements in the Simba and Seromba cases will be delivered later this year. Judgement in the Simba case will be delivered on 13 December 2005. Unfortunately, difficulties arising from the withdrawal of the Lead Counsel in the Seromba case, has disrupted the trial, and consequently delayed the delivery of judgement. A new Lead Counsel has been appointed and the trial is now in progress. Judgement in this case is now expected in 2006. This document also projected the commencement of two new trials in the second half of 2005. This has been accomplished. Trials in the Mpambara and Zigiranyirazo cases commenced in September and October, respectively.

65. In 2006, trials in the Butare, Military I and Government cases are expected to be completed.[13] With the completion of most multi-accused trials, more permanent judges will become available to sit with *ad litem* judges. It is expected that about six new single-accused cases could commence from 2006.

66. In 2006/7, Karemera *et al.* and the Military II cases are expected to have been completed. About six single-accused trials could commence, including trials of the indictees at large, as well as of those who have been recently indicted. Depending on the progress of these cases, about six single-accused trials could start in 2008.

67. The above projections suggest that, by 2008, the ICTR could complete trials and judgements in the range of sixty-five to seventy persons, depending on the progress of present and future trials. Again, it is emphasized that this is an estimate. It also depends on sufficient resources being made available. The Tribunal is committed to bringing to justice those persons who were most responsible for genocide and violations of international humanitarian law that were committed in Rwanda in 1994. In this process, the ICTR will establish the guilt or innocence of the accused, bring justice to victims of the massive crimes that were committed and establish a record of facts that can aid reconciliation in Rwanda. The Tribunal will also leave a legacy of international jurisprudence that can guide future courts and deter the future commission of these grave crimes.

68. As mentioned above (para. 1), the present document is part of the ICTR's continuing process of refining its Completion Strategy. The Tribunal welcomes contributions to this process.

[13] In the Completion Strategy of November 2004, it was projected that the Military I trial would be completed by 2005. However, counsel for one of the accused was withdrawn from the case, which resulted in a delay in the resumption of trial.

ANNEX I

PERSONS CONVICTED OR ACQUITTED : 26 ACCUSED IN 20 JUDGEMENTS

First Mandate (May 1995-May 1999)

Name	Former Title	Initial Appearance	TC	Judgement
J.-P. Akayesu	Bourgmestre of Taba	30 May 1996	TC1	2 September 1998
J. Kambanda	Prime Minister	1 May 1998	TC1	4 September 1998 (guilty plea)
O. Serushago	Businessman, Interahamwe leader	14 December 1998	TC1	5 February 1999 (guilty plea)
C. Kayishema	Prefect of Kibuye	31 May 1996	TC2	21 May 1999 (joinder)
O. Ruzindana	Businessman	29 October 1996		
G. Rutaganda	Businessman, 2nd Vice-president of Interahamwe	30 May 1996	TC1	6 December 1999
A. Musema	Businessman	18 November 1997	TC1	27 January 2000
Sum first mandate			**Six judgements (seven accused)**	

Second Mandate (May 1999-May 2003)

G. Ruggiu	RTLM Journalist	24 October 1997	TC1	1 June 2000 (guilty plea)
I. Bagilishema	Bourgmestre of Mabanza	1 April 1999	TC1	7 June 2001
G. Ntakirutimana	Doctor	2 December 1996	TC1	21 February 2003 (joinder)
E. Ntakirutimana	Pastor	31 March 2000		
L. Semanza	Bourgmestre of Bicumbi	16 February 1998	TC3	15 May 2003
E. Niyitegeka	Minister of Information	15 April 1999	TC1	15 May 2003
J. Kajelijeli	Bourgmestre of Rukingo	19 April 1999	TC2	1 December 2003
F. Nahimana	RTLM Director	19 February 1997	TC1	"Media Case" (joinder) 3 December 2003
H. Ngeze	Kangura Editor	19 November 1997		
J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
J. Kamuhanda	Minister of Culture and Education	24 March 2000	TC2	22 January 2004
A. Ntagerura	Minister of Transport	20 February 1997	TC3	"Cyangugu Case" (joinder) 25 February 2004
E. Bagambiki	Prefect of Cyangugu	19 April 1999		
S. Imanishimwe	Lieutenant in FAR	27 November 1997		

Sum second mandate			**Nine judgements (14 accused)**

Result of first two mandates by February 2004			**Fifteen judgements (21 accused**

Positions: The 21 accused held the following positions in 1994: 1 Prime Minister, 3 Ministers, 2 Prefects, 4 Bourgmestres, 1 Senior Admin., 3 Media, 1 Military, 1 Clergy, 5 Others.

Third Mandate (May 2003-May 2007)

COMPLETED TRIALS: FIVE DETAINEES IN FIVE CASES

Name	Former Title	Initial Appearance	TC	Judgement
S. Gacumbitsi	Bourgmestre of Rurumo	20 June 2001	TC3	17 June 2004. Started on 28 July 2003.
E. Ndindabahizi	Minister of Finance	19 October 2001	TC1	15 July 2004. Started on 1 September 2003.
V. Rutaganira	Councillor of Mubuga	26 March 2002	TC3	14 March 2005 (guilty plea).
M. Muhimana	Councillor of Gishyita	24 November 1999	TC3	28 April 2005. Started on 29 March 2004.
A. Simba	Lieutenant-Colonel in FAR	18 March 2002	TC1	13 December 2005. Started on 30 August 2004.

Positions: 1 Minister, 1 Bourgmestre, 2 Councillors, 1 Military

ANNEX 2

ON-GOING TRIALS: TWENTY-SIX DETAINEES IN TEN CASES

Name	Former Title	Initial Appearance	TC	Comments
P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	TC2	"Butare Case" (joinder). Started in second mandate. **Completion in 2006?**
A. S. Ntahobali	Interahamwe leader	17 October 1997		
S. Nsabimana	Prefect of Butare	24 October 1997		
A. Nteziryayo	Prefect of Butare	17 August 1998		
J. Kanyabashi	Bourgmestre of Ngoma	29 November 1996		
E. Ndayambaje	Bourgmestre of Muganza	29 November 1996		
T. Bagosora	Dir. of Cabinet, Ministry of Defence	20 February 1997	TC1	"Military I Case" (joinder). Started in second mandate. Completion in 2006.
G. Kabiligi	Brigadier-General in FAR	17 February 1998		
A. Ntabakuze	FAR Battalion Commander	24 October 1997		
A. Nsengiyumva	Lieutenant-Colonel in FAR	19 February 1997		
C. Bizimungu	Minister of Health	3 September1999	TC2	"Government Case" (joinder). Started on 5 November 2003. Completion in 2006.
J. Mugenzi	Minister of Commerce	17 August 1999		
J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
P. Mugiraneza	Minister of Civil Service	17 August 1999		
E. Karemera	Minister of Interior, V-P of MRND	7 April 1999	TC3	Karemera et al. (joinder) Started on 27 November 2003. Started *de novo* on 19 September 2005.
M. Ngirumpatse	D-G of Ministry of Foreign Affairs, President of MRND	7 April 1999		
J. Nzirorera	President of National Assembly, S-G of MRND	7 April 1999		
A. Rwamakuba	Minister of Education	7 April 1999	TC3	Started on 27 November 2003. Started *de novo* on 9 June 2005. Judgement in 2006.
A. Seromba	Priest, Kivumu Commune	8 February 2002	TC3	Started on 20 September 2004. Judgement in 2006.
A. Ndindilyimana	Chief of Staff of Gendarmerie	27 April 2000	TC2	"Military II Case" (joinder) Started on 20 September 2004.
F-X Nzuwonemeye	FAR Battalion Commander	25 May 2000		
I. Sagahutu	2IC of Reconn. Battalion	28 November 2000		
A. Bizimungu	Chief of Staff of FAR	21 August 2002		

T. Muvunyi	Commander, Ecole Sous-officiers	8 November 2000	TC3	Started on 28 February 2004. Judgement in 2006.
J. Mpambara	Bourgmestre of Rukara	8 August 2001	TC1	Started on 19 September 2005. Judgement in 2006.
P. Zigiranyirazo	Businessman	10 October 2001	TC3	Started on 3 October 2005.

Positions: 7 Ministers, 1 Parliamentarian, 2 Prefects, 1 Senior admin., 3 Bourgmestres, 9 Military, 1 Clergy, 2 Others.

Annex 3

Awaiting Trial: Seventeen Detainees

Name	Former Title	Initial Appearance	TC	Number of OTP witnesses.*
S. Nchamihigo	Deputy Prosecutor	29 June 2001	TC1	15
F. Rukundo	Chaplain	26 September 2001	TC3	20
F. Karera	Prefect of Kigali Rural	26 October 2001	TC3	15
P. Bisengimana	Bourgmestre of Gikoro	18 March 2002	TC2	15
J. Nzabirinda	Youth Organizer	27 March 2002	TC2	15
S. Bikindi	Musician	4 April 2002	TC3	30
H. Nsengimana	Rector, Christ-Roi College	16 April 2002	TC2	15
J.-B. Gatete	Bourgmestre of Murambi	20 September 2002	TC1	30
T. Renzaho	Prefect of Kigali	21 November 2002	TC2	30
I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	TC3	
J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	TC2	
Y. Munyakazi	Interahamwe leader	12 May 2004	TC1	
G. Kanyarukiga	Businessman	22 July 2004	TC1	
E. Setako	Colonel	22 November 2004	TC1	
M. Bagaragaza	Director, National Tea Industry	18 August 2005	TC3	
J. Serugendo	Technical Director, RTLM	30 September 2005	TC1	
C. Kalimanzira	Acting Minister of Interior	14 November 2005		

Positions: 1 Acting Minister, 2 Prefects, 3 Bourgmestres, 1 senior administrator, 1 Lesser admin, 2 Military, 2 Clergy, 1 media, 4 Others.

* The number of OTP witnesses heard during trial is normally lower than pre-trial estimates.

Annex 4

Estimates Based on the Prosecutor's (OTP) Figures for Present Detainees (Previous Completion Strategy)

	Case	No. of Accused	No. of OTP witnesses	No. of hours for OTP case-in-chief	No. of hours for Defence cross-examination	No. of hours for Defence case-in-chief	No. of hours for OTP cross-examination	Total hours
1	Butare	6	68	330	330	330	330	1320
2	Military I	4	100	500	500	500	500	2000
3	Muvunyi and Hategikimana	2	43	180	180	180	180	720
4	Seromba	1	20	100	100	100	100	400
5	Ndindabhizi	1	15	50	50	50	50	200
6	Military II	4	90	500	500	500	500	2000
7	Government I	4	50	300	300	300	300	1200
8	Karemera *et al.*	4	45	300	300	300	300	1200
9	Zigiranyirazo	1	30	100	100	100	100	400
10	Bikindi	1	30	100	100	100	100	400
11	Renzaho	1	30	100	100	100	100	400
12	Gikongoro	1	41	170	170	170	170	680
13	Bisengimana	1	15	50	50	50	50	200
14	Karera	1	15	50	50	50	50	200
15	Mpambara	1	30	150	150	150	150	600
16	Gacumbitsi	1	30	120	120	120	120	480
17	Rukundo	1	20	80	80	80	80	320
18	Nzabirinda	1	15	60	60	60	60	240
19	Nsengimana	1	15	60	60	60	60	240
20	Muhimana	1	15	60	60	60	60	240
21	Rutaganira	1	15	60	60	60	60	240
22	Gatete	1	30	120	120	120	120	480
23	Nchamihigo	1	15	60	60	60	60	240
24	Rugambarara	1	20	80	80	80	800	340
		42	**794**	**3680**	**3680**	**3680**	**3680**	**14740**

United Nations S/2005/783

Security Council

Distr.: General
13 December 2005

Original: English

Letter dated 13 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

I have the honour to forward herewith a letter from Fuad Siniora, Prime Minister of Lebanon, addressed to you (see annex) concerning the request of the Government of Lebanon to establish a tribunal of an international character to try all those who are found responsible for the assassination of the late Prime Minister Rafiq Hariri, and to expand the mandate of the International Independent Investigation Commission or create an independent international investigation commission to investigate the assassination attempts and assassinations and explosions that took place in Lebanon starting with the attempt on the life of Minister Marwan Hamade on 1 October 2004.

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ibrahim **Assaf**
Chargé d'affaires a.i.

05-64051 (E) 131205

Annex to the letter dated 13 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

13 December 2005

Reference is made to our telephone conversation of 12 December 2005 following the terrorist assassination of prominent MP and journalist Gebran Tueini, and in the light of the two reports of Commissioner Detlev Mehlis, of 19 October and 10 December 2005. I would hereby like to convey to you the request of the Lebanese Government, as per its decision at its meeting on 12 December 2005, to ask the Security Council:

- To establish a tribunal of an international character to convene in or outside Lebanon, to try all those who are found responsible for the terrorist crime perpetrated against Prime Minister Hariri.

- To expand the mandate of the International Independent Investigation Commission formed according to Security Council resolution 1595 (2005), or create an independent international investigation commission, to investigate the assassination attempts and assassinations and explosions that took place in Lebanon starting with the attempt on the life of Minister Marwan Hamade on 1 October 2004.

I would like to seize this opportunity to thank you once again for the continued support that you personally and the United Nations are extending to Lebanon.

(*Signed*) Fuad **Siniora**

United Nations S/2005/784

Security Council

Distr.: General
13 December 2005

Original: English

United Kingdom of Great Britain and Northern Ireland: draft resolution

The Security Council,

Welcoming the report of the Secretary-General of 29 November 2005 (S/2005/743) on the United Nations operation in Cyprus,

Reiterating its call to the parties to assess and address the humanitarian issue of missing persons with due urgency and seriousness, and welcoming in this regard the resumption of the activities of the Committee on Missing Persons since August 2004, as well as the Secretary-General's intention to appoint a Third Member as of January 2006 and to reinforce his office,

Noting that the Government of Cyprus is agreed that in view of the prevailing conditions in the island it is necessary to keep UNFICYP beyond 15 December 2005,

Taking note of the assessment of the Secretary-General that the security situation on the island continues to be stable and that the situation along the Green Line remains calm, welcoming in this context the further decrease in the overall number of incidents involving the two sides, while noting nonetheless that there were incidents of significant concern,

Urging both sides to avoid any action which could lead to an increase in tension and taking note with concern, in this context, of the conduct, for the first time since 2001, of the "Nikiforos" military exercise, and, afterwards, the "Toros" military exercise,

Regretting that progress towards a political solution has been negligible at best and urging both sides to work towards the resumption of negotiations for a comprehensive settlement,

Welcoming the Secretary-General's continuous engagement in the search for a comprehensive settlement of the Cyprus problem,

Welcoming all demining activity in the buffer zone, including the agreement to begin the clearing of Turkish Forces minefields in Nicosia and surrounding areas within the buffer zone,

Expressing concern that, since the release of the Secretary-General's report, differences have arisen over construction activity related to the proposed additional

05-64256 (E) 141205

crossing point at Ledra Street and urging both sides to cooperate with UNFICYP to resolve this issue,

Welcoming the Secretary-General's intention to keep the operations of UNFICYP under close review continuing to take into account developments on the ground and the views of the parties, and to revert to the Council with recommendations as appropriate for further adjustments to UNFICYP's mandate, force levels and concept of operation as soon as warranted,

Welcoming the fact that over nine million crossings by Greek Cypriots to the north and Turkish Cypriots to the south have taken place, and encouraging the opening of additional crossing points,

Welcoming all efforts to promote bicommunal contacts and events, including, inter alia, on the part of the United Nations, and urging the two sides to promote further bicommunal contacts and to remove any obstacles to such contacts,

Echoing the Secretary-General's gratitude to the Government of Cyprus and the Government of Greece for their voluntary contributions to the funding of UNFICYP, and his request for further voluntary contributions from other countries and organizations,

Welcoming and encouraging efforts by the United Nations to sensitize peacekeeping personnel in the prevention and control of HIV/AIDS and other communicable diseases in all its peacekeeping operations,

1. *Reaffirms* all its relevant resolutions on Cyprus, in particular resolution 1251 (1999) of 29 June 1999 and subsequent resolutions;

2. *Expresses* its full support for UNFICYP and decides to extend its mandate for a further period ending 15 June 2006;

3. *Calls on* the Turkish Cypriot side and Turkish forces to restore in Strovilia the military status quo which existed there prior to 30 June 2000;

4. *Requests* the Secretary-General to submit a report on implementation of this resolution by 1 June 2006;

5. *Welcomes* the efforts being undertaken by UNFICYP to implement the Secretary-General's zero tolerance policy on sexual exploitation and abuse and to ensure full compliance of its personnel with the United Nations code of conduct, requests the Secretary-General to continue to take all necessary action in this regard and to keep the Security Council informed, and urges troop-contributing countries to take appropriate preventive action including the conduct of pre-deployment awareness training, and to take disciplinary action and other action to ensure full accountability in cases of such conduct involving their personnel;

6. *Decides* to remain seized of the matter.

United Nations S/2005/785

Security Council

Distr.: General
13 December 2005

Original: English

Letter dated 13 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Uganda to the United Nations addressed to the President of the Security Council

Upon instructions of my Government, I have the honour to forward to you herewith an aide mémoire on the situation of internally displaced persons in northern Uganda (see annex).

I will be very grateful if you can have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Adonia **Ayebare**
Ambassador
Chargé d'affaires a.i.

05-64088 (E) 141205

Annex to the letter dated 13 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Uganda to the United Nations addressed to the President of the Security Council

Situation of internally displaced persons in northern Uganda

Introduction

Pursuant to United Nations Security Council resolutions 1296 (2000) and 1265 (1999), the United Nations Secretary-General has presented his report on the Protection of Civilians in armed Conflict Document S/2005/740 of November 28, 2005. While the report has taken more than five years to prepare, inaccuracies regarding the situation of IDPs in Northern Uganda persist. One would have expected that the time lag provided ample time to do adequate research, make the necessary consultations with the relevant government and civil society agencies to enable a clear and unbiased picture to be projected.

Using facts provided by this biased report which paints Uganda as the perpetrator of injustice rather than the victim, Canada and the Secretary-General are urging the Security Council to put Uganda on its agenda. In this regard, they are equating Northern Uganda to Darfour, DRC and Nepal.

Situation in Northern Uganda

The International Community will recall that the situation in Northern Uganda is the result of the activities of the Lord's Resistance Army (LRA). LRA, once supported by the Sudan, is a criminal band of people that have, since their inception in 1986, made it a policy to attack civilians under the pretext that they are fighting the government of Uganda. They do not confront the armed forces of Uganda; i.e. UPDF and LDU. they attack civilians, abduct them and destroy civilian infrastructure including schools and hospitals. On the contrary, the UPDF and LDU operating in the area do not attack civilians. They protect them. The situation is, therefore, not comparable to that in the Darfour region of the Sudan. In the latter, the government is fully engaged in the banditry spearheaded by the Janjaweed while in Uganda the government is engaged in a struggle to protect the population. Any comparison between the two as the UN Secretary-General does is clearly unfortunate. It is unacceptable and masks a politically activist attitude that should be beyond his office. The protestations by Canada are equally misplaced.

The LRA created an atmosphere of insecurity in a large part of Northern Uganda. They have abducted children whom they brutalize and turn them into killing machines. As abductions and killings increased, the general population felt that they had to run somewhere for protection. In all cases, they ran towards UPDF camps providing an additional responsibility to the forces deployed to fight the rebels. In the midst of this, government felt it prudent to create a structural framework that could allow the army to effectively protect the people and pursue the LRA at the same time. Hence organized IP camps were born. As the fighting increased and pressure mounted on the LRA, attacks on civilians intensified. This created further displacement and strained the capacity of UPDF to undertake the two Missions simultaneously. (The UPDF had just gone through a Reduction in Force exercise at the behest of the donors who wanted a reduction in the defence budget.)

However, with the understanding of donors and the attendant increase in the defence budget, the army has now secured enough defence assets including troop carriers, helicopters, etc. thus enhancing its mobility and capacity to confront the LRA effectively. It is now clear that the LRA is in the throes of its extermination. The co-operation among the SPLA/M, the Sudanese Defence Forces, and UPDF has further deprived the LRA of the hideouts in Southern Sudan to which it used to retreat. A real possibility of the end of their senseless rebellion is finally in sight. The International Criminal Court (ICC) has indicted the LRA's top leadership thus exerting further pressure on them. The rank of this leadership and a few troops have run to the DRC while others are roaming the bushes of Southern Sudan and Northern Uganda in small bands. They mount terrorist attacks on unescorted aid convoys and villages. Such actions are timed to maximize press coverage and publicity. However, one thing is certain, Uganda is on top of the situation. Any international intervention at the tail end of the conflict will not be useful. It will just create unnecessary complications.

Role of the International Community

Uganda appreciates the humanitarian assistance given by the International Community and Civil society. The magnitude of their assistance is well received and appreciated. She might not have, on her own, effectively managed to handle the humanitarian aspects of the situation. However, accepting this assistance does not in itself mean that she is incapable of doing anything. We have undertaken humanitarian and development work

in the region. The Northern Uganda Reconstruction Project and Northern Uganda Social Action Fund are some of the interventions that we have undertaken to address the short, medium and long term needs of the region. Indeed various government agencies including the Ministry of Disaster Preparedness in the Prime Minister's Office have been effectively engaged in the humanitarian aspects in the area. We have also adopted an IDP policy that emphasizes security, human freedom and dignity and self-reliance. A Rehabilitation and Development Plan is under consideration. It will emphasize issues of sustainable peace, social cohesion and long-term development.

Security Situation

A few weeks ago, Uganda government announced a move to resettle 700,000 IDPs in their original homes. This move was occasioned by the tremendously improved security situation. So improved is the situation that IDPs on the recommendation of their elected local leadership and government are willing to return to their homes. It is, therefore, surprising that countries like Canada are pushing for the inclusion of Uganda on the agenda of the Security Council. What we need now is increased funding to support resettlement not any other action as contemplated by the propagators of this line.

Uganda believes that the situation in Northern Uganda is an internal matter on which she is the only one that can recommend, call for, and initiate action as she sees fit. At the moment, with the improved security, the main challenges remain resettlement of IDPs, rehabilitation of the damaged social infrastructure, social rehabilitation, extreme poverty, and underdevelopment. Massive funds will be needed to address these challenges. Uganda on her own cannot undertake them. International intervention by way of funding will be needed. The International Community is called upon to assist. It is with this in view that we welcome and support the UN Secretary-General's humanitarian appeal for US$223 million. On our part, we shall endeavour to ensure that peace and security reigns.

Conclusion

Uganda wishes to request members of the UN Security Council to avoid the alarmism that has characterized debate on the situation in Northern Uganda. This line, championed by Mr. Jan Egeland, the Under-Secretary-General for

Humanitarian Affairs is unacceptable. It is a blatant disregard of facts on the ground and manifests a politically activist attitude that Uganda finds self-serving. We request that the Council ignores such call and appreciates the efforts of the government of Uganda to restore peace, security and human dignity to the affected part of Northern Uganda. To do otherwise will be a slap in the face for a country that has single-handedly fought terrorism for a considerable period of time. Peace is in sight as the combined elements of peace in Southern Sudan, and the DRC, and the effectiveness of UPDF, have come into play.

United Nations S/2005/786

Security Council

Distr.: General
14 December 2005
English
Original: French

France: draft resolution

The Security Council,

Recalling its previous resolutions and statements of its President relating to the situation in Côte d'Ivoire,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation,

Recalling that it endorsed the Agreement signed by the Ivorian political forces in Linas-Marcoussis on 24 January 2003 (S/2003/99) (the Linas-Marcoussis Agreement) approved by the Conference of Heads of State on Côte d'Ivoire, held in Paris on 25 and 26 January 2003, the Agreement signed in Accra on 30 July 2004 (the Accra III Agreement) and the Agreement signed in Pretoria on 6 April 2005 (the Pretoria Agreement), as well as the decision of the Peace and Security Council of the African Union on the situation in Côte d'Ivoire adopted at its 40th meeting at the level of Heads of State and Government held on 6 October 2005 in Addis Ababa (S/2005/639),

Commending the efforts of the Secretary-General, the African Union, in particular President Olusegun Obasanjo of Nigeria, Chair of the African Union, and President Thabo Mbeki of the Republic of South Africa, Mediator of the African Union, President Mamadou Tandja of Niger, Chair of the Economic Community of West African States (ECOWAS) and the leaders of the region, to promote peace and stability in Côte d'Ivoire, and *reiterating* its full support for them,

Recalling the final communiqué of the International Working Group of 8 November 2005, which stated in particular that the fundamental basis of the peace and national reconciliation process is enshrined in resolution 1633 (2005), and recalling also its final communiqué of 6 December 2005,

Recalling strongly the obligations of all Ivorian parties, the Government of Côte d'Ivoire as well as the Forces nouvelles, to refrain from any violence, in particular against civilians including foreign citizens, and to cooperate fully with the activities of the United Nations Operation in Côte d'Ivoire (UNOCI),

Expressing its serious concern at the persistence of the crisis in Côte d'Ivoire and of obstacles to the peace and national reconciliation process from all sides,

Reiterating its firm condemnation of all violations of human rights and international humanitarian law, including the use of child soldiers, in Côte d'Ivoire,

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Taking note of the final communiqué of the Kimberley Process Plenary Meeting held in Moscow from 15 to 17 November 2005 and of the resolution adopted by Kimberley Process participants at that meeting setting out concrete measures to prevent the introduction of diamonds from Côte d'Ivoire into the legitimate diamond trade, and *recognizing* the linkage between the illegal exploitation of natural resources such as diamonds, illicit trade in such resources, and the proliferation and trafficking of arms and the recruitment and use of mercenaries as one of the sources of fuelling and exacerbating conflicts in West Africa,

Taking note also of the report of the United Nations Panel of Experts on Côte d'Ivoire dated 7 November 2005 (S/2005/699),

Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to renew until 15 December 2006 the provisions of paragraphs 7 to 12 of resolution 1572 (2004);

2. *Reaffirms* paragraphs 4 and 6 of resolution 1572 (2004), paragraph 5 of resolution 1584 (2005), and paragraphs 3, 9, 14, 15, 16, 17, 18, 19 and 21 of resolution 1633 (2005), *reaffirms* also paragraph 8 of resolution 1584 (2005), and, in this regard, demands that the Forces nouvelles establish without delay a comprehensive list of armaments in their possession, in accordance with their obligations;

3. *Reaffirms* its readiness to impose the individual measures provided for in paragraphs 9 and 11 of resolution 1572 (2004), including against any person designated by the Committee established by paragraph 14 of resolution 1572 who blocks the implementation of the peace process as enshrined in resolution 1633 (2005) and in the final communiqué of the International Working Group, who is determined responsible for serious violations of human rights and international humanitarian law committed in Côte d'Ivoire since 19 September 2002, who incites publicly hatred and violence, and who is determined to be in violation of the arms embargo;

4. *Decides* that any serious obstacle to the freedom of movement of UNOCI and of the French forces which support it, or any attack or obstruction to the action of UNOCI, of the French forces, of the High Representative for the elections and of the International Working Group constitutes a threat to the peace and national reconciliation process for purposes of paragraphs 9 and 11 of resolution 1572 (2004);

5. *Requests* the Secretary-General and the French Government to report to it immediately, through the Security Council Committee established by paragraph 14 of resolution 1572 (2004) (the Committee), of any serious obstacle to the freedom of movement of UNOCI and of the French forces which support it, including the names of those responsible, and requests also the High Representative for the elections and the International Working Group to report to it immediately, through the Committee, any attack or obstruction to their action;

6. *Decides* that all States shall take the necessary measures to prevent the import of all rough diamonds from Côte d'Ivoire to their territory, *welcomes* the

measures agreed by participants in the Kimberley Process Certification Scheme to this effect, and *calls upon* the States in the region which are not participants in the Kimberley Process to intensify their efforts to join the Kimberley Process in order to increase the effectiveness of monitoring the import of diamonds from Côte d'Ivoire;

7. *Requests* all States concerned, in particular those in the region, to report to the Committee, within 90 days from the date of adoption of this resolution, on the actions they have taken to implement the measures imposed by paragraphs 7, 9 and 11 of resolution 1572 (2004) and by paragraphs 4 and 6 above, and *authorizes* the Committee to request whatever further information it may consider necessary;

8. *Decides* that at the end of the period mentioned in paragraph 1 above, the Security Council shall review the measures imposed by paragraphs 7, 9 and 11 of resolution 1572 (2004) and by paragraphs 4 and 6 above, in the light of progress accomplished in the peace and national reconciliation process in Côte d'Ivoire, and *expresses* its readiness to consider the modification or termination of these measures before the aforesaid period only if the provisions of resolution 1633 (2005) have been fully implemented;

9. *Requests* the Secretary-General, in consultation with the Committee, to re-establish, within 30 days from the date of adoption of this resolution and for a period of 6 months, a group of experts consisting of no more than five members (the Group of Experts), with the appropriate range of expertise, in particular on arms, diamonds, finance, customs, civil aviation and any other relevant expertise, to perform the following mandate:

(a) To exchange information with UNOCI and the French forces in the context of their monitoring mandate set out in paragraphs 2 and 12 of resolution 1609 (2005),

(b) To gather and analyse all relevant information in Côte d'Ivoire and elsewhere, in cooperation with the governments of those countries, on flows of arms and related materiel, on provision of assistance, advice or training related to military activities, on networks operating in violation of the measures imposed by paragraph 7 of resolution 1572 (2004), and on the sources of financing, including from the exploitation of natural resources in Côte d'Ivoire, for purchases of arms and related materiel and activities,

(c) To consider and recommend, where appropriate, ways of improving the capabilities of States, in particular those in the region, to ensure the effective implementation of the measures imposed by paragraph 7 of resolution 1572 (2004) and by paragraph 6 above,

(d) To seek further information regarding the action taken by States with a view to implementing effectively the measures imposed by paragraph 6 above,

(e) To report to the Security Council in writing within 90 days from its establishment, through the Committee, on the implementation of the measures imposed by paragraph 7 of resolution 1572 (2004) and paragraph 6 above, with recommendations in this regard,

(f) To keep the Committee regularly updated on its activities,

(g) To provide the Committee in its reports with evidence of any violations of the measures imposed by paragraph 7 of resolution 1572 (2004) and paragraph 6 above,

(h) To cooperate with other relevant groups of experts, in particular that established on Liberia by resolutions 1521 of 22 December 2003 and 1579 of 21 December 2004,

(i) To monitor the implementation of the individual measures set out in paragraphs 9 and 11 of resolution 1572 (2004);

10. *Requests* the Secretary-General to communicate as appropriate to the Security Council, through the Committee, information gathered by UNOCI and, when possible, reviewed by the Group of Experts, about the supply of arms and related materiel to Côte d'Ivoire and about the production and illicit export of diamonds;

11. *Requests* also the French Government to communicate as appropriate to the Security Council, through the Committee, information gathered by the French forces and, when possible, reviewed by the Group of Experts, about the supply of arms and related materiel to Côte d'Ivoire and about the production and illicit export of diamonds;

12. *Requests* also the Kimberley Process to communicate as appropriate to the Security Council, through the Committee, information and, when possible, reviewed by the Group of Experts, about the production and illicit export of diamonds;

13. *Urges* all States, relevant United Nations bodies and other organizations and interested parties, including the Kimberley Process, to cooperate fully with the Committee, the Group of Experts, UNOCI and the French forces, in particular by supplying any information at their disposal on possible violations of the measures imposed by paragraphs 7, 9 and 11 of resolution 1572 (2004) and by paragraphs 4 and 6 above;

14. *Decides* to remain actively seized of the matter.

United Nations A/60/590-S/2005/787

General Assembly
Security Council

Distr.: General
14 December 2005

Original: English

General Assembly
Sixtieth session
Agenda items 106 and 108

Crime prevention and criminal justice

Measures to eliminate international terrorism

Security Council
Sixtieth year

Letter dated 14 December 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the fact that in the statement of the European Union, circulated on 2 December 2005 as a Security Council document (S/2005/750), the European Union expressed its concern about the criminal procedures launched by the law enforcement bodies of Uzbekistan with regard to several Uzbek citizens.

With the purpose of providing the international community with objective and accurate information about the cases of those persons whose names appeared in the above-mentioned statement, I would like to forward to you the attached information on this matter (see annex).

I would appreciate it if you could circulate the present letter and its annex as a document of the sixtieth session of the General Assembly, under agenda items 106 and 108, and of the Security Council.

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

05-64362 (E) 161205 161205

Annex to the letter dated 14 December 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Comments by the Republic of Uzbekistan on the European Union statement of 8 November 2005 on the human rights situation in Uzbekistan, distributed as a Security Council document on 2 December 2005

The statement by the European Union concerning the alleged persecution in Uzbekistan of human rights defenders and journalists bears no relation to the facts. The distribution of such statements is viewed by Uzbekistan as a deliberate distortion of the true state of affairs in Uzbekistan with the intention of applying political pressure on the country.

With a view to bringing before the international community objective information regarding the persons about whom the European Union has expressed its concern, Uzbekistan considers that the following facts should be noted:

Any action taken by the Uzbek law-enforcement agencies to arrest and keep in detention persons suspected of committing criminal acts is carried out in accordance with the country's criminal and criminal-procedure legislation and with international legal standards.

Uzbekistan therefore considers the attempts by the European Union to cast doubt on the actions of the Uzbek authorities to ensure public and national order and prevent crime in the country to be subjective, tendentious and groundless.

In Uzbekistan, the right to engage in human rights or any other humanitarian activity is not infringed in any way, unless it runs counter to national legislation.

Specifically, the investigation concerning Mr. S. Umarov is taking place in connection with charges that, as part of an organized group, he committed economic offences and is not in any way connected with his social and political activities.

In accordance with generally accepted international standards, after the charges were read out, Mr. Umarov was informed of the rights and obligations of an accused person. Mr. Umarov has been provided with the services of defence counsel (Mr. V. Krasilovsky and Ms. M. Burnasheva), who have free access to him and are protecting all the rights of their client.

In order to assess Mr. Umarov's state of health, two medical examinations were carried out, the first, by order of the investigating authorities, by an expert from the Forensic Medicine Office of the Central Health Directorate of Tashkent, in the presence of witnesses, and the second, at the request of Mr. Umarov's lawyers, by specialists from a psycho-neurological clinic. Both examinations indicated that Mr. Umarov was not suffering from any physical injuries or mental disease. Moreover, Mr. Umarov himself denies that he was subjected to any impermissible physical or psychological procedures or that he was given any psychotropic drugs.

Ms. E. Urlaeva was arrested for distributing materials that insulted the State symbols of the Republic of Uzbekistan. Such activities are criminally punishable in accordance with article 215 of the Criminal Code (Desecration of State Symbols of the Republic of Uzbekistan).

In view of the fact that Ms. Urlaeva had previously suffered from mental disease, the investigators took the decision to conduct a forensic psychiatric examination concerning her mental capacity and her psychological state at the time that the offence was committed. In accordance with the conclusions of the examination, which took place on 28 August 2005, Ms. Urlaeva was pronounced mentally unfit to plead.

On the basis of the conclusions of the psychiatric examination and articles 265 and 266 of the Code of Criminal Procedure, the court ruled that Ms. Urlaeva should be placed in a psychiatric institution and absolved her of criminal liability in the light of the diagnosis. The court also ruled that she should undergo a course of treatment in a psychiatric hospital. Ms. Urlaeva's treatment has now been completed and she has been discharged from hospital.

Mr. S. Zainabiddinov was charged with preparing and distributing materials that constituted a threat to public safety and order. The materials distributed by Mr. Zainabiddinov contained false information aimed at arousing public panic and undermining the constitutional order of Uzbekistan.

The investigation concerning this person is currently still in progress, and he has enjoyed all the rights guaranteed under the law in full measure. He enjoys the services of a lawyer (Ms. M. Akhmedova) that he himself chose.

Mr. D. Khajiev, Mr. T. Khajhiev, Mr. K. Shakirov and Mr. M. Kodirov played an active part in organizing and carrying out the terrorist acts committed in Andijan on 13 May 2005, resulting in 187 deaths.

In carrying out these actions, the persons concerned committed offences covered by a range of articles of the Criminal Code, including article 97 (Wilful homicide, with aggravating circumstances), article 155 (Terrorism), article 159 (Infringement of the constitutional order of Uzbekistan), article 242 (Organization of a criminal association), article 244 (Mass rioting), and article 247 (Unlawful possession of a firearm, ammunition, or explosive materials devices).

The preliminary investigation revealed that the aforementioned persons were in hiding in the territory of Kyrgyzstan. In this connection, the General Prosecutor's Office of Uzbekistan, in full conformity with the norms of international law, sent a request to the General Prosecutor of Kyrgyzstan for their extradition to the investigating agencies of Uzbekistan for criminal prosecution.

However, these persons voluntarily returned to Uzbekistan before the request was fulfilled and they sent the Andijan district prosecutor a statement with a confession acknowledging their participation in the terrorist acts of 13 May 2005 in Andijan.

The voluntary return of the aforementioned persons is also confirmed by reply No. 8/1-14 of 5 June 2005 by the General Prosecutor's Office of Kyrgyzstan indicating that the requests by the General Prosecutor's Office of Uzbekistan for the extradition of Mr. Shakirov, Mr. D. Khajiev, Mr T. Khajiev, and Mr. Kodirov were not acted upon since these persons returned voluntarily to Uzbekistan.

The criminal investigation concerning the aforementioned persons was conducted in full conformity with the norms of national legislation on criminal procedure.

In accordance with the results of the judicial proceedings, the court, having found the accused guilty under the relevant articles of the Criminal Code of Uzbekistan and having taken into account their sincere repentance, sentenced Mr. T. Khajiev to 17 years imprisonment,, Mr. Shakirov to 13 years and Mr. Kodirov to 17 years.

The preliminary investigation concerning Mr. D. Khajiev is still in progress.

Uzbekistan should like to point out once again that the publication of the European Union statement as an official document of the Security Council once again confirms the intention on the part of individual Western countries to use international organizations in order to achieve their self-interested political goals. The European Union statement concerning Uzbekistan is politically motivated and has nothing in common with a real concern about democracy or human rights in the country.

United Nations S/2005/788

Security Council

Distr.: General
15 December 2005

Original: English

France, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

The Security Council,

Reaffirming all its previous relevant resolutions, including resolutions 1595 (2005) of 7 April 2005, 1373 (2001) of 28 September 2001, and 1566 (2004) of 8 October 2004, and reaffirming in particular resolution 1636 (2005) of 31 October 2005,

Reaffirming its strongest condemnation of the 14 February 2005 terrorist bombing, as well as of all other terrorist attacks in Lebanon since October 2004, and reaffirming also that all those involved in these attacks must be held accountable for their crimes,

Having examined carefully the report of the International Independent Investigation Commission (S/2005/775) ("the Commission") concerning its investigation into the 14 February 2005 terrorist bombing in Beirut, Lebanon, that killed former Lebanese Prime Minister Rafiq Hariri and 22 others, and caused injury to dozens of people,

Commending the Commission for the outstanding professional work it has accomplished under difficult circumstances in assisting the Lebanese authorities in their investigation of this terrorist act, and commending in particular Detlev Mehlis for his leadership in the discharge of his duties as the Head of the Commission and for his dedication to the cause of justice,

Reiterating its call upon all States to extend to the Lebanese authorities and to the Commission the assistance they may need and request in connection with the inquiry, and in particular to provide them with all relevant information they may possess pertaining to this terrorist attack,

Acknowledging the letter of the Prime Minister of Lebanon to the Secretary-General of 5 December 2005 (S/2005/762) requesting that the mandate of the Commission be extended for a further period of six months, with a possibility of an additional extension as necessary, to enable the Commission to continue to assist the competent Lebanese authorities in the ongoing investigations of the crime, and to explore possible follow-up measures in order to bring the perpetrators of the said crime to justice, and acknowledging also the concurrent recommendation of the Commission in that regard,

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Acknowledging also the letter of the Prime Minister of Lebanon to the Secretary-General of 13 December 2005 (S/2005/783) requesting the establishment of a tribunal of an international character to try all those who are found responsible for this terrorist crime and requesting also that the mandate of the Commission be expanded or that another international investigation Commission be created, to investigate the terrorist attacks that took place in Lebanon since 1 October 2004,

Noting that Syrian authorities made available Syrian officials for questioning, but deeply concerned at the Commission's assessment of Syrian performance to date, and noting that the Commission is still awaiting the provision of other requested materials from Syrian authorities,

Reaffirming its determination that this terrorist act and its implications constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Welcomes* the report of the Commission;

2. *Decides*, as recommended by the Commission and requested by the Lebanese Government, to extend the mandate of the Commission, as set forth in resolutions 1595 (2005) and 1636 (2005), initially until 15 June 2006;

3. *Takes note of* the progress of the inquiry achieved since the Commission's last report to the Council, and notes with extreme concern that, while the inquiry is not yet complete, it confirms its previous conclusions and that the Syrian Government has yet to provide the Commission with the full and unconditional cooperation demanded in resolution 1636 (2005);

4. *Underscores* Syria's obligation and commitment to cooperate fully and unconditionally with the Commission, and specifically demands that Syria responds unambiguously and immediately in those areas adduced by the Commissioner and also that it implements without delay any future request of the Commission;

5. *Requests* the Commission to report to the Council on the progress of the inquiry every three months from the adoption of this resolution, including on the cooperation received from the Syrian authorities, or anytime before that date if the Commission deems that such cooperation does not meet the requirements of this resolution and of resolutions 1595 and 1636;

6. *Acknowledges* the Lebanese Government's request that those eventually charged with involvement in this terrorist attack be tried by a tribunal of an international character, requests the Secretary-General to help the Lebanese Government identify the nature and scope of the international assistance needed in this regard, and requests also the Secretary-General to report to the Council in a timely manner;

7. *Authorizes* the Commission, following the request of the Lebanese Government, to extend its technical assistance as appropriate to the Lebanese authorities with regard to their investigations on the terrorist attacks perpetrated in Lebanon since 1 October 2004, and requests the Secretary-General in consultations with the Commission and the Lebanese Government to present recommendations to expand the mandate of the Commission to include investigations of those other attacks;

8. *Requests* the Secretary-General to continue to provide the Commission with the support and resources necessary for the discharge of its duties;

9. *Decides* to remain seized of the matter.

United Nations S/2005/789

Security Council

Distr.: General
16 December 2005

Original: English

Note by the President of the Security Council

I have the honour to transmit a letter dated 14 December 2005 from the Chairman of the working group established pursuant to resolution 1566 (2004) addressed to the President of the Security Council (see annex), transmitting a report of the working group established pursuant to resolution 1566 (2004).

05-64018 (E) 201205

Annex

Letter dated 14 December 2005 from the Chairman of the working group established pursuant to resolution 1566 (2004) addressed to the President of the Security Council

I have the honour to forward the report of the working group established pursuant to resolution 1566 (2004) (see enclosure). It would be highly appreciated if the present letter and its enclosure could be circulated as a document of the Council.

(*Signed*) Lauro L. **Baja**, Jr.
Chairman
Working group established
pursuant to resolution 1566 (2004)

Enclosure

Report

Security Council working group established pursuant to resolution 1566 (2004)

I. Background

1. The Security Council adopted resolution 1566 (2004) on 8 October 2004. Under paragraph 9 of the resolution, the Council established a working group consisting of all members of the Security Council to consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee, including more effective procedures considered to be appropriate for bringing them to justice through prosecution or extradition, freezing of their financial assets, preventing their movement through the territories of Member States, preventing supply to them of all types of arms and related material, and on the procedures for implementing these measures.

2. In paragraph 10 of the resolution, the Security Council further requested the working group to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families, which might be financed through voluntary contributions, which could consist in part of assets seized from terrorist organizations, their members and sponsors, and submit its recommendations to the Council.

3. Upon agreement of the Security Council (see S/2005/4) Lauro L. Baja, Jr., Permanent Representative of the Philippines to the United Nations, was appointed Chairman of the working group.

4. The working group held its first meeting on 27 January 2005. At that meeting, members agreed to conduct the activities of the working group in two phases. The initial phase would involve gathering information, views and perspectives from sources inside and outside the United Nations to assist the working group in accomplishing its mandate. The second phase would be devoted to discussion and consideration of the recommendations submitted by the working group to the Security Council, as mandated under resolution 1566 (2004).

5. The working group agreed that dialogue between it and the wider membership of the United Nations would be advantageous. A key strategy for the working group would be to maintain transparency and openness in its work. Contributions from non-members of the Security Council would be welcomed and encouraged. The working group held an informal meeting on 27 April 2005 with interested Member States to listen to their views on the issues it faced in relation to its mandate under resolution 1566 (2004). More than 50 Member States participated in the meeting.

6. The working group emphasized the importance of maintaining flexibility in its working methods. In particular, no rigid approaches would be imposed on the time frame of its work.

7. The working group agreed that members and non-members could submit written proposals and ideas on how to achieve its mandate. Several delegations have done so. Members emphasized the need to have close contact and interaction with other subsidiary bodies of the Security Council dealing with counter-terrorism.

8. The working group noted that paragraphs 9 and 10 of resolution 1566 (2004) would be indicative of the themes that its efforts should focus on. These would include the practical measures that could be pursued against individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee; the question of the victims and the possible establishment of a compensation fund for them; and the scope of application of the measures recommended by the working group.

9. As part of its information gathering phase, the working group invited resource speakers to discuss relevant topics. The speakers invited were Richard Barrett, Coordinator of the Monitoring Team of the Al-Qaida/Taliban Sanctions Committee; Javier Ruperez, Executive Director of the Security Council Counter-Terrorism Committee Executive Directorate; Jean-Paul Laborde, Chief of the Terrorism Prevention Branch of United Nations Office on Drugs and Crime; and Edward Luck of the School of International and Public Affairs of Columbia University. The working group also held a joint meeting with the Counter-Terrorism Committee to hear a briefing by Guy de Vel, Director-General of the Council of Europe, and Rafael A. Benitez, head of the Counter-Terrorism Task Force of the Council of Europe, on the latest activities of the Council of Europe on counter-terrorism. The working group benefited from the experience and expertise of the resource speakers covering practical and theoretical, legal and political aspects of the work of the Security Council and other international and regional bodies in counter-terrorism.

II. Agenda

10. In the light of its mandate under paragraphs 9 and 10 of resolution 1566 (2004), the working group agreed to explore possible recommendations for submission to the Security Council under three broad headings: (1) practical measures to be imposed against individuals, groups or entities involved in or associated with terrorist activities other than those designated by the Al-Qaida/Taliban Sanctions Committee; (2) victims of terrorist acts; and (3) the scope of application of the measures that could be adopted under resolution 1566 (2004).

11. Under the rubric of "practical measures", members agreed to focus their discussions on the following issues: freezing of financial assets; preventing movement; preventing the supply of arms; strengthening prosecution and extradition; curtailing recruitment and training; preventing public provocation; and use of the Internet. On the issue of victims, members agreed to discuss the support for victims and the possible establishment of a compensation fund for them. In the area of the scope of the application of the measures against terrorist individuals, groups and entities other than those designated by the Al-Qaida/Taliban Sanctions Committee, members agreed to discuss the question of establishing effective means to identify those individuals, groups and entities, including the possibility of establishing a new Security Council list that would identify such individuals, groups and entities.

III. Discussion

12. The outcome of the discussion of the working group is set out below.

13. The working group stressed that terrorism in all its forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable, regardless of their motivation, wherever, whenever and by whomsoever committed;

14. The working group recalled that States must ensure that any measures they take to combat terrorism should comply with all their obligations under international law and that they should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law;

15. The working group agreed that the Security Council consider the different capacities of States to implement counter-terrorism measures. While some States are in an advanced stage with regard to the legal framework, technology and mechanism of combating terrorism, other States, in particular many developing countries, lack the essential capacity to establish a system to effectively implement counter-terrorism measures. The working group considered it critical that technical assistance be extended to such States. The working group recommended that the Council establish stronger cooperation with international, regional, and subregional organizations that can assist the capacity of States in this area.

A. Practical measures

Freezing of financial assets

16. The working group agreed that freezing of financial assets is an indispensable tool in curtailing terrorism. The working group recommended that the Security Council continue its efforts to stop financial support for terrorism, based on existing multilateral instruments, international agreements, standards and best practices.

17. In its resolution 1617 (2005), the Security Council strongly urged all Member States to implement the comprehensive international standards embodied in the Financial Action Task Force's (FATF) Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing. The facility extended by various international bodies, such as the International Monetary Fund and the World Bank, to provide technical assistance to countries that lack capacity must be fully utilized.

18. The working group agreed that international, regional, and subregional organizations provide an excellent source of best practices on the freezing of financial assets. It was aware that existing subsidiary bodies of the Security Council, such as the Counter-Terrorism Committee and the Al-Qaida/Taliban Sanctions Committee, use these practical standards and practices when evaluating implementation by States of asset freeze measures. The working group recommended that the Council build on those resources to strengthen the effectiveness of freezing and curtailing the flow of financial assets that may be used for terrorism.

19. The working group recommended that the Security Council continue to seek stronger engagement and cooperation with international, regional, and subregional

organizations in the fight against international terrorism. Many terrorist groups are localized to specific regions and do not have any global reach or operations.

20. The working group expressed concern about cases of abuse by charitable organizations and institutions in funnelling financial support for terrorism. It recommended that the Council continue to pay close attention to the issue.

Preventing movement

21. The working group agreed that preventing the movement of terrorists is an essential measure in the fight against terrorism. Noting the experience of other subsidiary bodies of the Security Council, the working group agreed that preventing the movement of terrorists requires careful implementation, through the use of complete and accurate identifiers of individuals who may be subjected to this measure.

22. The working group noted that effective implementation of this measure also relies on close bilateral cooperation between States sharing common borders. The working group recommended that the Council continue to encourage bilateral arrangements for stronger border controls to prevent the movement of terrorists.

Preventing the supply of arms

23. The working group agreed that prevention of the supply of arms to individuals, groups or entities involved in or associated with terrorist activities is an essential measure in the fight against terrorism. While current efforts of the international community regarding small arms provide the strategic and long-term framework to make this measure effective, the working group recommended that the Security Council work to enhance the prevention of the supply of all types of arms and related materials to terrorists.

24. The working group stressed that the effectiveness of this measure requires a regional focus on where the flow of arms is normally concentrated. Existing international instruments and initiatives, such as on marking and tracing, could provide a useful framework in the implementation of this measure.

Strengthening prosecution and extradition

25. The working group stressed that bringing terrorists to justice is a principal obligation of all States as set out in Security Council resolution 1373 (2001). The working group recommended that the Council urge States to fully implement the principle of extradite or prosecute, as stated in the relevant resolutions of the Council. The working group recommended furthermore to the Council to continue to urge States to become parties to relevant international conventions and protocols relating to terrorism, whether or not they are a party to regional conventions.

26. The working group recommended that the Security Council encourage States to boost their efforts to bring terrorists to justice by entering into agreements for mutual legal assistance with other States. These efforts would lead to the strengthening of the rule of law, as well as the protection of the rights of the accused.

Curtailing recruitment and training

27. The working group agreed that the fight against terrorism requires necessary attention to the suppression of the recruitment of would-be terrorists and their training. Individuals, groups or entities involved in or associated with terrorist activities must not have unfettered resort to recruitment and training of individuals for their nefarious activity.

28. The working group reiterated that the Security Council had decided that States should deny safe haven for terrorists. The working group recommended that the Council consider inviting States to put in place preventive measures, in particular but not exclusively the criminalization of the recruitment and training of terrorists.

Preventing public provocation

29. The working group agreed that public provocation to commit acts of terrorism is an insidious activity contributing to the spread of the scourge of terrorism. The adoption by the Security Council of resolution 1624 (2005), which includes a call to States to take such measures as may be necessary and appropriate to prohibit by law incitement to commit a terrorist act or acts, on the occasion of the Council's meeting at the level of Heads of State and Government, is a milestone.

Use of the Internet

30. The working group agreed that the use of the Internet by individuals, groups and entities involved in or associated with terrorist activities to spread hate and to incite to violence poses a grave danger to peace and security. The working group welcomed efforts and initiatives to curb cybercrime in other international, regional, and subregional bodies.

B. Victims of terrorist acts

Support and compensation fund

31. The working group noted that the number of victims of terrorism, especially among civilians of diverse nationalities and beliefs, has been increasing in various regions of the world. Solidarity with victims and their families can include assistance and provision of support to cope with their loss and grief.

32. The working group noted that, owing to various reasons the resolution of questions about the establishment of a compensation fund for victims of terrorist acts at the international level was premature. While recognizing the importance of helping victims of terrorist acts, the working group recommended that the best approach for the time being was to encourage individual States to determine ways and means to extend assistance to victims of terrorist acts.

C. Scope of the application of the practical measures

Establishing effective means to identify individuals and groups associated with terrorist activities

33. The working group stressed the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations and international law.

34. Owing to various reasons including the lack of consensus, agreement was not reached on the expansion of the list of individuals, groups and entities involved in or associated with terrorist activities beyond the one already established under the Al-Qaida/Taliban Sanctions Committee.

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Letter dated 9 December 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire addressed to the President of the Security Council

I have the honour to transmit herewith the report of my mission to Côte d'Ivoire, carried out from 18 to 21 October 2005.

I would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Adamantios Th. **Vassilakis**
Chairman
Security Council Committee established pursuant to
resolution 1572 (2004) concerning Côte d'Ivoire

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Enclosure

Report of the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire on his mission to Côte d'Ivoire

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I. Introduction

1. On 7 September 2005, the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire agreed that its Chairman would visit Côte d'Ivoire on the basis of a political framework to be decided by the Security Council.

2. On 21 September 2005, following informal consultations, the President of the Security Council issued a statement to the press in which the members of the Council expressed their support for my upcoming visit to the region. The Council noted that the purpose of the visit was to assess the progress made by all parties towards the implementation of their commitments, bearing in mind the Committee's mandate under paragraphs 9 and 11 of resolution 1572 (2004), so that the Council would be in a position to take appropriate action in response to those who posed a threat to the peace and national reconciliation process in Côte d'Ivoire or who were responsible for serious violations of human rights and international humanitarian law in the country.

3. I visited Côte d'Ivoire from 18 to 21 October 2005, accompanied by Maria Telalian, Minister Counsellor, Permanent Mission of Greece to the United Nations, and Loraine Rickard-Martin, Secretary of the Committee. During our stay we visited Abidjan (two days) and Bouaké and Daoukro (one day).

4. At my request, the Special Representative of the Secretary-General and head of the United Nations Operation in Côte d'Ivoire (UNOCI), Pierre Schori, prepared a comprehensive and well-organized programme. I would like to express to him and his staff my deep appreciation for all the assistance provided and for making the practical arrangements for my travel.

5. I met with all the signatories of the Linas-Marcoussis, Accra III and Pretoria Agreements. I wish to emphasize that all my interlocutors received me in a very forthcoming manner and dedicated the necessary time for a constructive and meaningful discussion.

6. In particular, I met with the President of the Republic, Laurent Gbagbo, the Prime Minister, Seydou Diarra, and the representatives of the various political parties as follows:

- Front populaire ivorien: Pascal Affi N'Guessan
- Mouvement des forces de l'avenir: Innocent Kobena Anaky
- Mouvement pour la justice et la paix: Gaspard Deli
- Mouvement patriotique de la Côte d'Ivoire: Guillaume Soro
- Mouvement patriotique ivorien du Grand Ouest: Felix Doh
- Parti démocratique de la Côte d'Ivoire-Rassemblement démocratique africain: Henri Konan Bedié
- Parti ivoirien des travailleurs: Francis Wodie
- Rassemblement des républicains: Henriette Diabate
- Union pour la démocratie et pour la paix en Côte d'Ivoire: Mabri Toikeuse

7. I did not meet in person with Alassane Dramane Ouattara (Rassemblement des républicains), given that he resides in France. His representative, Henriette Diabate, who is also interim President of the Rassemblement des républicains, provided me with his telephone number, so we were able to speak extensively on the telephone immediately after I returned to New York. The meeting scheduled with Theodore Mel Eg of the Union démocratique et citoyenne did not take place for reasons beyond my control.

8. In Abidjan, I also met other State officials, in particular, the President of the National Assembly, Mamadou Koulibaly, and five vice-presidents; the President of the Economic and Social Council, Laurent Dona Fologo; the Minister for Foreign Affairs, Mamadou Bamba; the Minister of Defence, René Amani; and the Chief of Staff, General Philippe Mangou.

9. I also met with the newly established Independent Electoral Commission, representatives of four State press organizations and the representatives of four human rights organizations.

10. Finally, I felt it would be very useful to meet with the ambassadors of the members of the Security Council, the members of the Linas-Marcoussis monitoring committee and the ambassadors of all other countries represented in Abidjan.

II. Meetings with the United Nations Operation in Côte d'Ivoire and other United Nations bodies

11. The Special Representative of the Secretary-General, Pierre Schori, and his senior staff gave me a broad and extensive briefing regarding their activities, cooperation between UNOCI and the Ivorian Government and developments regarding the current situation in Côte d'Ivoire.

12. As an example of the prevailing situation, it was noted that on 17 October 2005 there was an inaugural ceremony for the foundation of a memorial in honour of the late president, Félix Houphouët-Boigny. The event was attended by the President of the Republic, the Prime Minister and several members of the Government. As soon as the President of the Republic departed, a group of "Young Patriots" approached the ministers of the opposition in such a threatening way that UNOCI was obliged to place ministers under its protection.

13. We received a written update containing several proposals by UNOCI for improving the media situation, which included: (a) strengthening UNOCI outreach teams and its political analysis capacity; (b) ensuring that journalists from both State-owned and private media adopt ethical standards for accurate and balanced news coverage; and (c) expanding UNOCI FM radio to broaden the scope of its direct coverage of developments throughout the country.

14. According to a UNOCI written briefing, serious violations of human rights and international humanitarian law continue to occur in both the Government and the Forces nouvelles zones, as well as in the Zone of Confidence. Ivorians continue to be kidnapped, arrested or killed as a result of criminal and political violence. These serious violations of human rights were attributed to elements of the Government-controlled Defence and Security Forces, military elements of the Forces nouvelles and armed and unarmed militia associated with both sides of the Ivorian conflict.

The human rights cases mentioned included incitement to political violence, killings and denial of the right to education. It was noted that the Government had failed to conduct investigations that could have shed light on events that led to killings in various parts of the country.

15. UNOCI underlined that there had been cases of non-cooperation and denial of freedom of movement to its forces by the Ivorian authorities. It was noted that obstructions had decreased in October, which was attributed to anticipation of my visit. UNOCI conducts two types of investigations: random and with prior notice (on the basis of information provided by Licorne and the Joint Mission Analysis Centre). Cooperation from the Ivorian Government was generally good, and UNOCI believed it was doing the best monitoring it could with the resources available to it.

Meeting with Antonio Monteiro, High Representative for the elections in Côte d'Ivoire

16. Mr. Monteiro expressed the view that unless the Independent Electoral Commission was set up in an all-inclusive manner, elections would not be possible. I would like to express my gratitude to him for arranging the meeting with all members of the new Commission and for all his support.

Meeting with the impartial forces

17. I also met with the impartial forces and in particular with General Fall (Force Commander of UNOCI), General Irastorza (Force Licorne) and UNOCI Police Commissioner Bouchard. The point was made that the international community should be concerned about the large quantities of armaments with a highly destructive capacity already acquired by Côte d'Ivoire, a sizeable portion of which was located in and around Abidjan, posing a serious risk. Force Licorne members were experiencing impediments to their movement and were sometimes confronted with violence.

18. With regard to disarmament, it was noted that Forces nouvelles held that its members were eligible for Ivorian citizenship and would not relinquish their arms until they had received identity cards.

Meeting with the Linas-Marcoussis monitoring committee members: the Special Representative of the Secretary-General (Chair), France, the European Commission, the European Union, the Economic Community of West African States, the United States of America, the International Organization of the Francophonie, the African Union, the World Bank, special advisers from UNOCI and Force Licorne

19. Some members of the monitoring committee emphasized the need to apply the sanctions quickly in order to speed up the electoral process, and particularly against those who were not implementing the Agreements. The Committee pointed out that as far as the threat of sanctions was concerned, there was a credibility problem, though the presence in Côte d'Ivoire of the Chairman of the sanctions committee would help in that regard. It was pointed out that sanctions would have an effect on the behaviour of the parties only to the extent that they were aware that sanctions were a real issue.

20. I was asked whether the Ivorian Government had contacted the sanctions committee concerning a request for an exemption to the arms embargo. I replied that I had been approached and had informed the Côte d'Ivoire representatives that it was the responsibility of the potential supplier of the equipment to apply to the committee for such an exemption, through the relevant Permanent Mission to the United Nations.

21. It was added that local and expatriate communities alike in Abidjan were fearful that there could be an explosion in the country after 30 October 2005. It was also noted that such a crisis could result in a massive refugee movement to countries of the Economic Community of West African States (ECOWAS), some of which were experiencing drought and famine.

Meeting with representatives of members of the Security Council

22. A majority of the representatives of the Security Council members stressed that sanctions must be implemented, particularly against those who violated human rights. The implementation of sanctions in relation to the road map was also emphasized. One ambassador noted that the Forces nouvelles were fighting essentially for identity, not political power. He pointed out that the denial of identity cards, which were needed for voting, was a means of political control, and stressed the need for confidence-building measures.

III. Meetings with the signatories of the Agreements

A. Message conveyed

23. During my meetings with the signatories of the Agreements and other State officials, as well as in my public statements, I delivered a message, which is summarized below.

24. The Security Council was following the developments in Côte d'Ivoire closely and expected the parties to respect and implement the Agreements. I added that the sanctions committee had not yet established a list of individuals and entities against which the travel ban and assets freeze would apply, because it had wanted to give the peace process a chance, while indicating its readiness to act when the time was ripe. I emphasized that this approach had been encouraged by the African Union and by its Mediator, Thabo Mbeki, President of South Africa, who had requested the Committee to hold off on implementing targeted sanctions.

25. However, given the failure to implement the Agreements, the deterioration of the human rights situation in the country and the inflammatory statements in the media, as indicated by various reports, the Committee, with encouragement from the African Union and the Mediator, had decided to reconsider the question of implementing targeted sanctions against those who constituted a threat and an impediment to the peace and national reconciliation processes.

26. I told the parties that I was visiting Côte d'Ivoire in order to assess the situation; that the Council had hoped that the parties would find their own way out of the crisis; and that no one wanted to impose sanctions for their own sake, but only as a means to move the country along the path to peace. I asked all sides to put aside the resentments of the past, to make additional efforts, and to "go the extra

mile", to bring Côte d'Ivoire out of the current stalemate and back to the brightness that it once enjoyed.

27. I drew the attention of the parties to the expiration of President Gbagbo's mandate on 30 October 2005, urging them to exercise self-restraint and to live up to their commitments under the relevant Agreements. In particular, I urged all Ivorian parties to fully implement the new resolution that the Security Council was about to adopt (resolution 1633 (2005) of 21 October).

28. Responding to questions from my interlocutors, I had the opportunity to explain the details of the targeted sanctions (an assets freeze and travel ban), including procedures for the listing and delisting of individuals designated by the Committee, according to the existing Committee guidelines. I made the point that no one was exempt from the sanctions regime.

B. Meetings with the signatories of the Agreements

Meeting with Laurent Gbagbo, President of the Republic

29. President Gbagbo stated that he had done everything that needed to be done to end the crisis in the country. In particular, he had taken all legislative and other measures required by the Agreements. Furthermore, in some cases he had amended the laws in order to satisfy the demands of the opposition (i.e. laws on the Independent Electoral Commission, citizenship, naturalization, the granting of amnesty, participation of the opposition in the Government). However, he said, new demands were being made constantly.

30. In his view, the main element lacking was disarmament, given that many who had no right to possess arms had refused to disarm. Each time the current Prime Minister had set a date for disarmament, the opposition had refused to comply. He believed that disarmament was the only reason elections had not been held and the main reason the country was in the current situation. He stressed that Forces nouvelles had to disarm immediately in order for elections to take place.

31. Responding to questions, the President stated that he was ready to implement the decision of the African Union and the resolution of the Security Council, adding that there was full freedom of movement in the governmental zone. Lastly, he noted that the "Young Patriots" and other armed youths were difficult to control.

Meeting with Seydou Diarra, Prime Minister of the Government of National Reconciliation

32. Prime Minister Diarra gave an account of the events since he was appointed Prime Minister and the problems he had faced prior to assuming his duties. He stated that although he had performed his duties in good faith, he had not been able to achieve results because he lacked the necessary financial authority. He said that he considered the appointment of a new Prime Minister a difficult task and noted that he was in favour of sanctions, because the country would move ahead only if pressure was exerted.

Meeting with Pascal Affi N'Guessan, President of the Front populaire ivoirien

33. Mr. Affi N'Guessan noted that he had agreed to leave the post of Prime Minister in order for the Agreements to be implemented, according to which disarmament would immediately follow the setting-up of the Government of National Reconciliation. However, he stated, the disarmament process had been suspended and the international community appeared to be unwilling to force the issue. Stressing the need for respect for the rule of law, he said he believed that the rebels were so confident that no one would or could disarm them by force that they saw no need for a democratic debate.

Meeting with Innocent Kobena Anaky, President of the Mouvement des forces de l'avenir

34. Mr. Anaky emphasized that many supporters of the President of the Republic, including militias and private people, in Abidjan and in the rural areas, carried weapons and must be disarmed in order for elections to be held. The destination of weapons was also a cause for concern, as many were not going to the army. He pointed to the events of 17 October after the memorial ceremony in honour of President Houphouët-Boigny, when he had been almost attacked by Young Patriots, as exemplifying a culture of violence against the opposition. Therefore, in his view, it was necessary for persons subject to targeted sanctions to be designated in order for them to realize that they would not enjoy impunity and that they were "in the eye of the cyclone".

Meeting with representatives of the Mouvement pour la justice et la paix, Gaspard Deli, Mouvement patriotique de la Côte d'Ivoire, Guillaume Soro, and Mouvement patriotique ivorien du Grand Ouest, Felix Doh

35. The Secretary-General of the Forces nouvelles, Guillaume Soro, presented the background of the current crisis. He noted that although historically Côte d'Ivoire was a multicultural and multiracial melting pot, a number of people now found themselves considered foreigners on their own soil, without entitlement to Ivorian citizenship. He believed that the crisis was primarily one of identity. He raised the issue of the agreement signed by military leaders committing to the distribution of identity cards during the pre-regrouping phase and noted with regret that it had not been recognized by President Gbagbo.

36. He also expressed regret that his party had not been consulted or associated with the recent talks on Côte d'Ivoire held in Abuja (by ECOWAS) or Addis Ababa (the African Union). He also said that since the international community had awarded the position of President to the other side, it would only be fair for his party to acquire the position of Prime Minister.

37. He expressed the view that disarmament should start not with the surrender of weapons, but rather by "pre-regrouping", with an eventual movement to disarmament and demobilization. He indicated that the policy of "Ivoirité", as construed, would destroy the nation and added that he had signed the Agreements on the understanding that his members would be guaranteed citizenship, but equality among Ivorians still had not been achieved.

Meeting with Henri Konan Bedié, President of the Parti democratique de la Côte d'Ivoire

38. Mr. Bedié stated that implementation of the Agreements had been hampered by the existence of militias, death squads and human rights abuses that had served to block the electoral process. Stating that the opposition parties were unable to function because they were prevented from organizing demonstrations, he added that he believed that it was imperative to distinguish political parties from armed groups. In his view, a new Prime Minister was needed during the transition period and should remain until the end of the elections because the President would not have the necessary powers after 30 October 2005. He added that while it was necessary for the Government to organize elections, there were problems associated with drawing up the electoral lists because people still lacked identity cards, which was in fact the cause of the crisis. He stated that in order for those who had committed violations not to remain unpunished, his party wished to see the United Nations assume its responsibilities and impose sanctions, lest it lose credibility.

Meeting with Francis Wodie, President of the Parti ivoirien des travailleurs

39. Mr. Wodie said that disregard for the Agreements had caused a crisis of confidence, that there was a problem of bad faith and that armed attacks, if not outright war, would be possible after 30 October. Referring to the problem of the new Independent Electoral Commission, he was of the opinion that everyone should work for the independence and neutrality of the Commission in order for elections to be organized. His preference would be for Ivorians to take the situation in hand and implement measures without external pressure and sanctions. He believed, however, that sanctions could be a deterrent for those who continued to obstruct the peace process.

Meeting with Henriette Diabate, interim president of the Rassemblement des républicains

40. Mrs. Diabate described the situation in the country as very difficult, especially from the security point of view, as demonstrated by the fact that the President of the Rassemblement des républicains was forced to live abroad. She emphasized that the ministers of the opposition were not able to perform their duties, and gave as an example that as Minister of Justice she was unable to nominate judges without the approval of the President of the Republic.

41. She also stated that the representatives of the group of four political parties (the Mouvement des forces de l'avenir, the Parti démocratique de la Côte d'Ivoire-Rassemblement démocratique africain, the Rassemblement des républicains and the Union pour la démocratie et pour la paix en Côte d'Ivoire) and the three Forces nouvelles movements (the Mouvement pour la justice et la paix, the Mouvement patriotique de la Côte d'Ivoire and the Mouvement patriotique ivoirien du Grand Ouest) were all in agreement, and insisted that sanctions must be applied as soon as possible, since as long as nothing happened, people would continue to believe that nothing ever would. However, she said, it was necessary for assurances to be given that sanctions would be applied in the interest of the Ivorian people. She expressed concern that if the new Independent Electoral Commission did not live up to expectations regarding its autonomous nature, it would have great difficulty in fulfilling its tasks.

42. In a telephone conversation, Alassane Ouattara stated that he fully agreed with the views presented by the interim president of his party, Mrs. Diabate, and that he followed the developments in his country closely, but that owing to the lack of security and the threats against his life he was forced to live outside the country.

Meeting with Mabri Toikeuse, President of the Union pour la démocratie et pour la paix en Côte d'Ivoire

43. Mr. Toikeuse noted that the Secretary-General and the former president of his organization had been murdered and their offices devastated, and that some newspapers had also been destroyed. He stated that grave human rights violations were taking place, that in some cases militias were housed in schools and clinics and that some ministers had "more arms than the armed forces". Noting the problems experienced by the Independent Electoral Commission, he expressed the view that the United Nations was not taking sufficient responsibility and that if the sanctions were not applied, people would continue to believe that violence was the only way to resolve the conflict.

IV. Meetings with other State officials

Meeting with Mamadou Koulibaly, President of the National Assembly

44. Mr. Koulibaly emphasized that all the necessary laws had been passed by the National Assembly but that disarmament had not been implemented by the other side. He showed a keen interest in the sanctions regime and its implications.

45. I also met with five vice-presidents of the National Assembly, who expressed views according to their political affiliation, while leaving me with the impression that they appreciated the content of my message.

Meeting with Laurent Dona Fologo, President of the Economic and Social Council

46. Mr. Fologo noted that a mosaic of 60 ethnic groups made the nascent nation fragile and that the economic crisis, a rapidly increasing population, the impact of neighbouring countries and a certain "weakness in political analysis" had all contributed to the problem. However, he did not expect developments to lead to war.

47. Stating the view that the majority of those who were armed were from the "wasted" or "foiled" generation, he stressed that he stood for order and discipline and was working with those in power, who were former opponents. He added that he had taken a firm position against using weapons as a way to settle the country's problems. Emphasizing that the Agreements had not been implemented and must be respected, he expressed himself in favour of the sanctions as a useful tool to force people to behave in a more rational manner and to move towards peace.

Meeting with Mamadou Bamba, Minister for Foreign Affairs

48. Mr. Bamba expressed concern about the human rights and humanitarian situation, as well as about the impact of the crisis on the region, given that Côte d'Ivoire had been its economic pillar. Noting the importance of free and fair elections, he stated that sanctions should not only be threatened but actually applied.

and underlined the importance of implementing the decisions of the Security Council.

Meeting with René Amani, Minister of Defence

49. Mr. Amani attributed the current deadlock to insecurity and a lack of mutual confidence. He stressed that disarmament should be carried out without any prerequisites and highlighted the need to build confidence and to mobilize the necessary means for disarmament, demobilization and reintegration. Observing that the United Nations Development Programme had assessed that the crisis had cost the country 25 years of progress, the Minister expressed the hope that the elections would pull the country out of the crisis.

Meeting with General Philippe Mangou, Chief of Staff of the Forces armées nationales de la Côte d'Ivoire

50. I mentioned that, in its final report (S/2005/699), the Group of Experts on Côte d'Ivoire noted that it had enjoyed good collaboration with the Ivorian armed forces and that they had not found any major violations of the arms embargo. At the same time, I emphasized the need for UNOCI not to be impeded in any way in the execution of its mandate, particularly in its freedom of movement and the need for the disarmament of the militias and the armed groups.

51. General Mangou stated that sustained efforts to move towards peace had been rebuffed, and that consequently discussions had been brought to a halt. Furthermore, he stated that there was a time frame for disarmament, but that whenever implementation was imminent, the opposition raised new problems. As regards the disarmament and reintegration of militias, he stated that a majority of militia members were civilian, not military personnel. He also noted that the rebellion had attracted many young people initially, but as the hardships had increased, many had left the fight and returned to the fields. He added that once they were ready to ask for forgiveness, they would be reintegrated. He also believed that sanctions must be applied for the country to move towards peace.

V. Meetings with State organizations

Meeting with the Independent Electoral Commission

52. Antonio Monteiro, High Representative for the elections in Côte d'Ivoire, convened and chaired the meeting with all the members of the new Independent Electoral Commission.

53. Responding to my message, some participants stated that the main reason that the Agreements had not been implemented was that the signatories did not represent the Ivorian people. Others were interested in ascertaining the procedures to be followed for applying sanctions and for making an appeal against such a decision, as well as the duration of the measures. Still others expressed the view that targeted sanctions were not an effective tool because most of the potential targets had no money and did not travel abroad.

Meeting with press organizations

54. I met with representatives of four State press organizations: the Observatoire de la liberté de la presse, de l'ethique et de la déontologie de Côte d'Ivoire, the Conseil national de la communication audiovisuelle, the Comité national de la presse, and the Union nationale des journalistes.

55. The discussions focused on the monitoring of the media for hate speech, as well as on the imposition of sanctions. It was noted that there were restrictions on the freedom of movement of journalists, who were not allowed access to certain areas of the country, and that there were many newspapers, each supported by a political party.

56. Regarding the political situation, it was noted that elections could not be conducted without disarmament, but that the Forces nouvelles insisted that its constituents must have identity cards before they disarmed.

57. The Comité national de la presse stated that it had the authority to impose sanctions (fines, suspension and prosecution) as necessary, although its resources were limited. It was pointed out that sanctions had been recently used against both the French (Radio France internationale) and the Ivorian (Radio télévision ivoirienne) press.

58. The Observatoire de la liberté de la presse, de l'ethique et de la déontologie de Côte d'Ivoire noted that it had a website that publicly denounced abuses by the press and that it also acted as a mediator for individuals who believed they had been damaged by the press. The Union nationale des journalistes stated that it was in favour of individual sanctions.

VI. Meeting with civil society human rights organizations

59. I met with 22 representatives of human rights organizations, including 2 women's groups, at UNOCI headquarters. The participants expressed their views freely, irrespective of their political affiliation.

60. It was noted that among the political parties there was a lack of political will and that the war was used as an excuse for not implementing the Agreements. Although some were sceptical of the positive effects of sanctions, they believed that sanctions should be used nevertheless. Several people remarked that the current instability had led to serious violations of human rights, some mentioned that massacres were taking place. Regret was expressed that civil society had been excluded from discussions on the crisis and the peace process.

61. Representatives of two women's groups urged that Ivorian women be brought into the peace process, as they had been in Liberia and Rwanda, where they had played an important role in resolving the conflicts in those countries.

VII. Assessment, conclusion and recommendations

62. I believe that my visit was well timed and that the sanctions have proven to be an effective tool and deterrent to any further action that might hinder the peace process. There was some apprehension among the various actors as well as the

general population that my visit would lead to the application of targeted sanctions. They all had various questions regarding the sanctions regime and its impact on individuals. I gave the necessary explanations and emphasized that no one would be exempted from the sanctions regime.

63. From my meetings with Ivorians of various affiliations, I concluded that there was strong agreement that individual sanctions should be applied without further delay to force the parties to implement the Agreements and to prevent incitement to hatred or violence, human rights violations and abuses. However, each side believed that the other side deserved to be sanctioned.

64. There was scepticism among some regarding the positive effects of sanctions, in particular about their power to change the behaviour of targeted individuals. Consequently, some actors sought assurances, which I provided, that the sanctions would be applied in the interest of the Ivorian people.

65. It was noted that there were a significant number of daily newspapers in Côte d'Ivoire but that many were under the influence of the major political parties. The prevailing view was that the press was not reliable, and that it indeed fanned the flames of violence. Some made the point that there were journalists whose articles could be criticized as inciting hatred, violence or intolerance, in which case the question was whom to sanction: the journalist as author of the article, the publisher or the editor of the newspaper.

66. Disarmament was and will continue to loom large in everyone's mind as a goal, but under different criteria of implementation; therefore, the goal remains unattainable. The problem was often stated in terms of a lack of mutual confidence.

67. There was widespread belief that elections were the key to solving the crisis, and great disappointment was expressed that the original timetable had not been met. Almost everyone with whom I spoke voiced the hope that the elections would be held as soon as possible. Several interlocutors mentioned problems with funding and resources for the new Independent Electoral Commission. Concern was also expressed regarding the disruption by "Young Patriots" of the meeting of the Independent Electoral Commission.

68. The Panel of Experts on Côte d'Ivoire did not find major violations of the arms embargo. At the same time, there are serious indications that large quantities of arms are at the disposal of the population. Needless to say, the issue of disarming the militia and defence groups was accorded high priority.

69. Bearing in mind the above, in my view, the Security Council and the Committee should keep the situation under close review until Security Council resolution 1633 (2005) is fully and unconditionally implemented and the disarmament of the Forces nouvelles, the militias and the defence groups is completed.

70. In the meantime, the Committee should consider taking prompt action against any individuals responsible for hindering the peace process, violating the arms embargo, inciting hatred, violence or intolerance or committing violations or abuses of human rights or international humanitarian law. I believe that such action will support the peace process and help to restore confidence and trust among the Ivorian people.

71. I also believe that the time has come for the Security Council to consider the report submitted by the International Commission of Inquiry for Côte d'Ivoire in 2004 and for the Sanctions Committee to discuss the annexes as suggested by the Secretary-General, with a view to putting an end to impunity.

72. In conclusion, while the request of the African Union and the Mediator to withhold any action that would have a negative effect on the peace process has been justified and the threat of sanctions has had an impact, the Council should not leave unanswered any actions that may give the impression that it allows impunity, which would undermine its credibility.

73. Last but not least, I wish to reiterate my appreciation to the Special Representative of the Secretary-General, Pierre Schori, and his staff, as well as to the troop-contributing countries for their steady dedication to United Nations peacekeeping operations.